

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 7, 2005**

A meeting of the Fayetteville City Council will be held on June 7, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

1. **Approval of the Minutes:** Approval of the May 10, 2005 and May 17, 2005 City Council meeting minutes.

APPROVED.

2. **Water and Sewer Division Vehicle Purchase:** A resolution approving the purchase of one (1) cab and chassis with dump body for the Water and Sewer Division from Landers Ford in the amount of \$34,590.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 104-05.

3. **Farmington Waterline Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$170,005.00 for the purchase of easements required for the Farmington Waterline Project; and approving a 10% project contingency in the amount of \$17,001.00.

PASSED AN SHALL BE RECORDED AS RESOLUTION NO. 105-05.

4. **Wastewater System Improvement Projects Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$569,845.00 for the purchase of easements required for Wastewater System Improvements Projects (WSIP) WL-1, WL-2, and WL-3; and approving a 10% project contingency in the amount of \$56,985.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 106-05.

5. **Hamestring Pumping Station Offer and Acceptance Contract:** A resolution approving an offer and acceptance contract between the City of Fayetteville and the Clydene Scharlau Trust for the purchase of real property and easements required for the new Hamestring Pumping Station in the amount of \$27,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 107-05.

6. **RJN Group, Inc., Engineering Services Contract:** A resolution awarding an Engineering Services Contract in the amount of \$420,216.00 with RJN Group, Inc. for sanitary sewer evaluation study and design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station; and approving a 5% project contingency in the amount of \$21,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 108-05.

7. **Designating Land for Recreation Purposes:** A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.

THIS ITEM WAS REMOVED FROM CONSENT AND MOVED TO ITEM NO. 10 OF NEW BUSINESS.

B. UNFINISHED BUSINESS:

1. **Amend § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to amend § 97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) Permits and (C) Fees. *This ordinance was left on the first reading at the May 17, 2005 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4707.

2. **RZN 05-1448 (Staggs):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1448 for property located at 2824 S. School Avenue. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare. *This ordinance was left on the second reading at the May 17, 2005 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4708.

C. NEW BUSINESS:

1. **ANX 05-1451 (Lane):** An ordinance annexing that property described in Annexation Petition ANX 05-1451 for property located at the end of Country Ridge Road, North of Hwy 16 East and West of Deerfield Way containing approximately 24.19 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4709.

2. **RZN 05-1452 (Lane):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1452 for approximately 24.19 acres located at the end of Country Ridge Road, North of 16 East and West of Deerfield Way from R-A, Residential-Agricultural to RSF-4, Residential Single Family – 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4710.

3. **ANX 05-1470 (Phillips/Baggett):** An ordinance annexing that property described in Annexation Petition ANX 05-1470 for property located at 5150 and 5270 E. Huntsville Road containing approximately 29.59 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4711.

4. **RZN 05-1471 (Phillips/Baggett):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1471 for approximately 36.99 acres located at 5150 and 5270 East Huntsville Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4-units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4712.

5. **Planning Commission Appeal (Lane):** A request to appeal the Planning Commissions motion to deny the rezoning request rezoning approximately 6.68 acres of property located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision from C-1, Neighborhood Commercial, to RSF-4, Residential Single Family – 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4713.

6. **Planning Commission Appeal (Wimberly):** A request to appeal the Planning Commission's motion to deny the rezoning request rezoning approximately 0.26 acres of property located at 155 E. Elm Street from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office.

THIS ITEM WAS VOTED ON TO APPROVE WHICH DIED FOR THE LACK OF A SECOND. THE ITEM WAS THEN VOTED ON TO DENY WHICH COUNCIL VOTED TO DENY THE APPEAL.

7. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

- 8. PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and Sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE.

- 9. Minimum Bid Pricing of 35 Acres of City Land:** A resolution setting the minimum bid price for the sale of 35 acres of the Westside Wastewater Treatment Plant Site, which is south of Persimmon Street and West of Broyles Road, at approximately \$25,000 per acre for total a minimum bid price of \$872,000.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 109-05.

- 10. Designating Land for Recreation Purposes:** A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 110-05.

D. INFORMATIONAL:

Council Tour: None.

MEETING ADJOURNED AT 10:02 P.M.

Adjourn 10:02

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody	✓			

8-0

Subject:	Consent				
Motion To:		Approve	Approve with item #7		
Motion By:		Jordan	moved to New Business		
Seconded:		Marr	# 10		
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Approved
with item
7 moved
to New
Business
10
104-05
to
108-05

Subject:	Amend 97.070 Recreational Activities				
Motion To:		2nd read			at
Motion By:		Reynolds			Lake
Seconded:		Ferrell			Jayettesville
B.I. Unfinished	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	Amend 97.070 Recreational Activities				
Motion To:		Amend Fees of Ordinance			at
Motion By:		Lucas			Lake
Seconded:		Marr			Jayettesville
B.I. Unfinished	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

8-0

Subject:	Amend 97.070 Recreational Activities				
Motion To:		3rd read	Pass		at
Motion By:		Marr			Lake
Seconded:		Jordan			Jayetteville
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	RZN 05-1448 (Staggs)				
Motion To:		3rd read	Pass		
Motion By:		Reynolds			
Seconded:		Ferrell			
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	N		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	N		
	Jordan	✓	N		
	Reynolds	✓	✓		
	Mayor Coody				

8-0

5-3

Subject:	ANX 05-1451 (Lane)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Reynolds	Thiel		
Seconded:		Thiel	Reynolds		
C.1. New Business 5-3 passed 4709	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	✓	
	Ferrell	absent during vote	absent during vote	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	N	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	5-3	

Subject:	RZN 05-1452 (Lane)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Jordan		
Seconded:		Jordan	Reynolds		
C.2. New Business passed 4710	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	ANX 05-1470 (Phillips/Baggett)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Reynolds	Reynolds		
C.3. New Business 5-3 passed 4711	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Marr	✓	✓	N	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	N	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	5-3	

Subject:	RZN 05-1471 (Phillips/Baggett)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Marr	Reynolds		
C.4. New Business passed 4712	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Planning Commission Appeal (Lane)			
Motion To:	Grant Appeal			
Motion By:	Thiel			
Seconded:	Reynolds			
	Thiel	✓		
	Cook	N		
	Marr	✓		
	Rhoads	✓		
	Ferrell	✓		
	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Mayor Coody			

C.5.
New
Business
Appeal
granted

~~7-1~~ 7-1

Subject:	(Appeal) Lane Ordinance - Rezone to RSF4			
Motion To:	2nd read	3rd read	Pass	
Motion By:	Thiel	Reynolds		
Seconded:	Ferrell	Thiel		
	Thiel	✓	✓	✓
	Cook	✓	✓	N
	Marr	✓	✓	✓
	Rhoads	✓	✓	✓
	Ferrell	✓	✓	✓
	Lucas	✓	✓	✓
	Jordan	✓	✓	✓
	Reynolds	✓	✓	✓
	Mayor Coody			

Ordinance
for above
appeal

passed

C.5
New
Business
4713

8-0

8-0

7-1

Subject:	Planning Commission Appeal (Wimberly)				
Motion To:		Approve Appeal		Deny Appeal	
Motion By:		Ferrell		Cook	
Seconded:		No Second		Marr	
C. 6. New Business	Thiel			✓	
	Cook	did		✓	
	Marr	for		✓	
	Rhoads	lack		✓	
	Ferrell	of a		✓	
	Lucas	Second		✓	
	Jordan			✓	
	Reynolds			✓	
	Mayor Coody				

0

8-0

Subject:	Adopt Chapter 176, Outdoor Lightning				
Motion To:		Amend to delete a part of Section B		Amend to remove E Section	
Motion By:		Ferrell		Rhoads	
Seconded:		Jordan		Marr	
C. 7. New Business	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		N	
	Mayor Coody				

8-0

6-2

Subject:	Adopt Chapter 176, Outdoor Lighting				
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

C. 7.
New Business
Left on
the
first
Reading

Subject:	PZD Ordinance Amendment				
Motion To:					
Motion By:					
Seconded:					
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

C. 8.
New
Business
Left on
the
first
Reading

Subject:	Minimum Bid Pricing of 35 Acres			
Motion To:		Amended to \$29,000 per acre		Approve as amended of
Motion By:		Marr		Marr
Seconded:		Jordan		Jordan
	Thiel	✓		✓
	Cook	✓		✓
	Marr	✓		✓
	Rhoads	✓		✓
	Ferrell	✓		✓
	Lucas	✓		✓
	Jordan	✓		✓
	Reynolds	✓		✓
	Mayor Coody			

C.9.
New
Business
passed
109-05

Subject:	Designating Land for Recreation			
Motion To:		Approve		Purposes
Motion By:		Marr		
Seconded:		Jordan		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	✓		
	Ferrell	✓		
	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Mayor Coody			

C.10.
New
Business
passed
110-05

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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B. UNFINISHED BUSINESS:

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D. INFORMATIONAL:

Council Tour: None

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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**Special City Council
Meeting Minutes
May 10, 2005**

A Special Meeting of the Fayetteville City Council was held on May 10, 2005 at 5:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Old Business:

Black & Veatch Amendment No. 1 Noland Wastewater Treatment Plant: A resolution to approve Amendment No. 1 to the agreement for professional services with Black & Veatch Corporation to provide construction and post construction services for the Noland Wastewater Treatment Plant in a not to exceed amount of \$1,478,000.00. *This item was tabled at the May 3, 2005 City Council meeting to a Special City Council meeting on May 10, 2005.*

Bob Davis, Water and Wastewater Director: We had a Water & Sewer Committee meeting last night and it was a unanimous vote by the three committee members present that we approve the contract amendment for Black and Veatch.

Alderman Reynolds: I turned my vote in today so you have four votes.

Alderman Jordan: One of the items that we discussed was how will we hold Black & Veatch responsible because in the contract I did not find any wording that holds them accountable other than professionally.

Bob Davis: I think the ultimate answer to that is we do have a certificate of professional liability insurance from them that we received when we signed the initial contract with them. This is an

amendment to their design and bidding phase contract. Black & Veatch has done work for the City of Fayetteville in the past and there has never been a problem with that work. The work that they just completed they did a great job with no problems so I don't see that not continuing. There are tasks that we can hold them accountable to as we go through the project and if those don't occur then we would sit down with them and visit with them about how to resolve those issues.

Alderman Jordan: We will be receiving monthly reports on the status of the project?

Bob Davis: Absolutely.

Mayor Coody: The Water & Sewer Committee has agreed to monthly meetings. I think that will be a very good occurrence from here on out to have those monthly meetings.

Alderman Ferrell: You said the ultimate responsibility on this would stop with you. The buck stops with you and you are a hands on person. I enjoy hearing that.

Bob Davis: Yes. That is correct.

Alderman Marr: If there is a problem with this contract what is the recourse for citizens? You could be fired, and I understand the buck stops with you. What are the legal contract terms do we have the ability to hold them accountable? If a subcontractor finds something and they take it to Black & Veatch what is the protection for the City that we are going to be notified of that. It appears to me that all the language in this contract is City of Fayetteville related.

Bob Davis: As far as the contract goes and the way the contract is written it is my understanding that one of the tasks of the program manager was to come up with a standardized construction phase services contract. That was one of the things that they did for the City. I am assuming that was submitted to the City, reviewed and approved by the City. That is where this contract came from. This is the same contract that you are going to see for the other three construction phase service providers.

Kit Williams: I think that is absolutely correct. Greg Boettcher and I worked on a form contract to get a lot of the objectionable language that is in a lot of contracts removed. The contractor has a duty to perform under the contract and our basic remedy is if the contractor fails to do that duty then we sue for breach of contract. The insurance that they have will help us collect, it doesn't help us enforce it but in fact if the contractor fails to do his duty we will be able to prove that they were negligent and failed to do their duty. Then we would be able to sue if the plant does not work within the perimeters of the contract. I think that the contracts that we have designed and that Burns & McDonnell now have created for the various engineers are much better than they have been in the past. They can not do more services than what we have already authorized without coming back to the City Council before they perform the services and ask for additional money for increase of scope of service. We have those provisions and provisions on the Freedom of Information Act in the contract.

The basic security the City has is that this engineering company was selected by a professional selection committee because they were the most highly qualified of the group that submitted applications to be selected for this project. After they were selected we negotiated this contract with them and they will be held to the standard of being a highly qualified engineering company and if they fail on that standard and don't do the job then at that point we certainly can take

remedies against them. In every project there will be problems it doesn't mean that there is always going to be litigation.

Bob Davis: I think what we have to do is take responsibility for ourselves as the owner. We have to be continually vigilant of our contractor and our consultants, whoever is working for us. We need to monitor those people and we need to know what they are doing. The only way we can do that is to be at these projects on a regular basis and know what is going on.

We are getting updated schedules that we will be providing to the City Council and with this schedule we can keep close tabs on what is going on, if something starts veering off we will know it and we can do something about in a timely manner.

Alderman Jordan: That is why I asked for monthly reports.

Bob Davis: I would like to tell you that the professional liability insurance is something you can feel secure about but it is really not.

Alderman Marr: I am not questioning the integrity of the work. I am going to want to do more due diligence because I have citizens calling me about the project. I want to know what questions I should look at and progress reports that I am going to need to look at to know that we are not having a problem. If we do have a problem what I don't want to hear is that our contract doesn't give us any recourse for that because every project does have a problem. At some point if we get into a problem I want to know that the citizens are protected. I am looking for language on how it is going to be interpreted. I want to hear on the record from our City Attorney what he just said that we did this contract, we are comfortable with it and we have defenses with this contract, if he feels this way then I trust him. I am reading the language more generally I guess maybe. It is a confidence issue; I am trying to get citizens and my own confidence up regarding this project.

Mayor Coody: I would like to suggest that when the Water & Sewer Committee meets on a monthly basis to get updates and to get filled in on the progress that we are making that everyone on the Council show up please and listen. That will be the time to ask questions and be completely in the loop. We invite all the City Council and anyone else that wants to come to the Water & Sewer Committee meetings to be updated and kept abreast of the latest progress to please come.

Alderman Marr: Please don't take this wrong but I feel like we have been getting updates. I feel like we got an update at the City Council meeting two months ago and I heard that we were not that far off on the timeframe and the budget. Then today I read an article that was different. What it said to me is that I did a really poor job with asking that person some questions. We really need to make sure this is right because we are talking about the confidence of the public. There are a lot of other things that I want to happen, I want roads and I don't want citizens turning it down because they don't think we can manage this.

Mayor Coody: Yes. The construction cost a week and a half ago was estimated at \$119,000,000. The latest update brought that down to \$116,000,000. There is a 10% contingency which is going to be roughly \$12,000,000. The easement acquisition money is in there and all the engineering fees were in there. At least we are doing everything we can. We are looking at other options to try to save money. I think we are back on the road to recovery. I feel more confident than I have in a while.

Alderman Rhoads: Does the professional liability insurance cover anything other than negligence?

Kit Williams: I am not sure I would have to look at it. Most of our contractors are required to have other insurance for their employees and things like that is that what you mean.

Alderman Rhoads: Is it my understanding we would have to sue them for negligence if it just didn't work?

Kit Williams: Do I am sure what I would do is sue for breach of contract.

Alderman Rhoads: Will their contractor insurance it for breach of contract?

Kit Williams: I am not sure I would have to look at the insurance policy to make sure what it says. I would also say that we are dealing with very substantial companies here that hopefully will not go bankrupt. I would think it would be more likely to cover their professional liability and not a breach of contract.

Alderman Cook: We truly do not know the cost of this project. These are all estimates until the bids come out, so we don't know what the budget is right now. There are parts of it that we do but it may be on or off the budget. The real budget of the construction of the plant we have no idea.

Bob Davis: That is correct. The only real numbers that we know right now is what the City paid for consulting services for the design bidding phases, we know what the proposals are for the other three phases of this program, east line work, west line work and the west side plant work and we know the cost of what we are doing at the Noland plant. Other than that every other number is subject to change. When you received the first cost estimate there was a 2.4% contingency on the construction and we have put a 10% on there. It has been a number of years since that was done and changes in material, fuel and labor are more volatile now. We are a long ways from knowing what this whole project is going to cost and probably will not know that for several months.

Alderman Cook: That makes me nervous to some degree. The original estimates were based on the 2001 dollars, concept and engineering estimates of the concept.

Bob Davis: That is exactly right. The one thing that has changed the most is the construction. One reason that has changed so much is those numbers were put together before the design was ever completed. For us to be at the place we are at right now I am not sure it is as really as bad as it may be perceived.

Alderman Marr: I think that information is good. I do feel like that people think it is in a worse situation. That's a good explanation and helps us to know what to ask. I want to know what I don't know and I am relying on someone to educate me and the citizens through this process so that we don't lose credibility. I think this Council has been really good and I don't want to see us having people question that.

Mayor Coody: That has been my main number one concern too. We have always been open with everyone; we have never tried to hide anything. If there has been a problem however it has been presented to us and we have presented that to the public as clearly as we can and we have

tried to resolve those issues. Every day we are looking at ways that we can effectively trim from the budget without trimming the effectiveness of the plant. We are going to keep that due diligence going and once we see a problem we will do everything we can to fix it.

Alderman Ferrell: Did I understand you to say Bob that you are bringing this back in house. So the watching and making sure everybody is doing everything is going to be a function of your department?

Bob Davis: That's correct.

Alderman Ferrell: I think it might be a prudent idea to take a look at these contracts and see how these contracts are worded and check with other areas that have had problems and see if they might have something we can learn from.

Bob Davis: We are really doing that right now. Instead of talking about what we are going to do after the fact, I think we need to more concerned in prevention and vigilance.

Alderman Lucas: What is pre-qualification?

Bob Davis: We get the contractor qualifications prior to letting the contractor bid on the project. The way these projects have been laid out before we actually were qualifying the contractor but it was after the fact.

Kit Williams: The most important thing is what Bob just said, you get the right engineer and the right contract and you pre-qualify them ahead of time. Then instead of worrying about what we are going to do and relying on the bonding company to finish the project you have a project that is going to be built right. The most important thing is to attack it early which Mr. Davis is talking about doing now. Lawyers can only do so much, it is much better tot have the project built right, we don't want to go to court on it.

Alderman Marr: I agree that we want it built right and I agree that we don't have to use a legal contract. At the Noland plant the Council had to wait for the company to go bankrupt because there were not things in the contract that allowed them to pursue them.

Kit Williams: On a construction contract you always require them to have a bond to finish the contract and if they don't do their job that is when you fall back upon the bond and the bonding company must bring in a new contractor to finish the job.

Mayor Coody: The best insurance we have against any kind of problem is hiring a firm with a track record of successes.

Alderman Ferrell: And having a good contract.

Alderman Jordan: My main concern is the discharge permit. It doesn't make any difference what else we do we have to have the discharge permit before we can do much of anything else. It is vitally important that that is taken care of. Where are we on that?

Bob Davis: CH2MHill did a modeling study on the stream and that was submitted to ADEQ. ADEQ wrote a letter in early March to EPA saying they had reviewed our model and this is what our discharge limit should be. EPA wrote a letter back to ADEQ and said they conditionally

approve those discharge limits. Subsequently those discharge limits were published in a two way plan change. That went through the 30 day notification period; and it received comments from Beaver Water District and the State of Oklahoma. ADEQ had omitted by mistake phosphorous limits on a permit for the west side plant and for the east side plant. On the conditional approval letter that came back from the EPA those limits were there and they remain what they are right now at the Noland plant. All the State of Oklahoma had to say about the Noland plant was there was mention that we would stop the Mud Creek discharge. They wanted to make sure that was clarified. The main thing Beaver Water District was concerned about is USGS is doing a study right now and they brought that up and they also brought up the request for public hearing. ADEQ will make the decision on how those inquiries will get responded to. I don't believe they are going to send us a letter stating that we have to stop using the Noland plant. Because we have this conditional approval from EPA I don't really see any problems with our discharge limits changing from what those permit limits were that were published.

Alderman Jordan: So in your expert opinion everything is okay and this is not going to hold us up.

Bob Davis: That is correct.

Alderman Ferrell moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 95-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 6:13 PM

Dan Coody, Mayor

Sondra Smith, City Clerk

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City Council
Meeting Minutes
May 17, 2005**

A meeting of the Fayetteville City Council was held on May 17, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Dan Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Presentation given by Steve Gibson of Urban Place Consulting regarding a Business Improvement District for Downtown.

Mr. Gibson gave a brief report regarding a Business Improvement District for the Downtown area.

Nominating Committee Report -- John White -- NWA Regional Airport Authority Board

Alderman Ferrell moved to approve the appointment of John White to the Northwest Arkansas Regional Airport Authority Board. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Town Branch Neighborhood Association -- World Peace Wetland Preserve Check Presentation

This organization presented a check in the amount of \$75,000.00 to the city.

Melissa Terry, with Audubon Arkansas, gave a brief presentation. She was representing the Fayetteville National Heritage Association and presented their mission statement.

Alderman Thiel commended the Fayetteville National Heritage Association for their hard work with land preservation.

CONSENT:

Approval of the Minutes: Approval of the May 3, 2005 and the May 10, 2005 City Council meeting minutes.

The May 3, 2005 Minutes were approved.

The May 10, 2005 Minutes were pulled from the agenda.

Emergency Medical Services Evaluation: A resolution authorizing payment not to exceed \$21,000.00 to Washington County as the City of Fayetteville's share of the cost of the evaluation, study and recommendations for Emergency Medical Services.

Resolution 96-05 as Recorded in the Office of the City Clerk.

Highway 16 West Utility Agreement: A resolution to approve a Highway-Utility Agreement for preliminary engineering services with the Arkansas State Highway Commission related to the Highway 16 West (Wedington Road) widening project.

Resolution 97-05 as Recorded in the Office of the City Clerk.

Razorback Road Agreement: A resolution to approve a Highway-Utility Agreement for preliminary engineering services with the Arkansas State Highway Commission related to the Razorback Road widening project.

Resolution 98-05 as Recorded in the Office of the City Clerk.

GIS Mobile Equipment System Purchase: A resolution awarding Bid #05-31 to ESRI, Inc. in the amount of \$12,877.94 for the purchase of one (1) ruggedized laptop computer with software and accessories comprising a GIS Mobile Equipment System.

Resolution 99-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the May 10, 2005 meeting minutes removed. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Amend § 96.5 Motor Vehicle and Motorcycle Sound Limit: An ordinance to amend §96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville. ***This ordinance was left on the second reading at the May 3, 2005 City Council meeting.***

Alderman Thiel moved to suspend the rules and go to the third and final reading. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-1. **Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Lucas and Jordan** voting yes. **Alderman Ferrell** voting no.

Mr. Williams read the ordinance.

Alderman Thiel: I think the sound limit for truck noise should be lowered. I don't mind tabling this for 3 months, through the summer months, and waiting to see the impact of what the Police Department is doing to enforce the current sound level. I know they've already taken some steps to deal with this problem. In fact, I think Captain Brown is here to elaborate on some of the things they've done.

Captain Brown: I've have several studies from areas where I've received some complaints and we've have the results from those studies which will narrow the time frame down that we need to do some enforcement. We are going to do some extra patrol in those areas. Certainly if there are any other complaints that come in whether it be cars with exhaust noise, loud car stereos, whatever the noise issues are, we will direct patrols toward those areas. We had a meeting with several trucking companies to let them know we were going to be out there during this enforcement and during those directed patrols. Hopefully, they and anybody that contracts from them will realize that if you're taking your mufflers off or fooling with your muffler systems, then your vehicles will be in violation and you can get a ticket for violating our noise ordinance. That meeting went very well and they were very receptive to it. They thanked us for meeting with them and using a community oriented policing philosophy and bringing in anyone that would have an interest in the problem. They appreciated being invited to come in and hear what we had to say, make comments, and ask questions. They were great. Also, the neighborhood associations will continue to work with them on all issues, sound being one of them. We'll go out and do some spot studies with officers in areas where we may have had some complaints or in areas where we think we may have some complaints generated.

Mayor Coody: When you were talking to the trucking firms, were you referring to the state statute that said that all vehicles must have operable mufflers?

Captain Brown: That state statue exists, but the sound limit that some of these vehicles are producing is because they have either altered their mufflers or taken them off was what we were going for. But there is a state statue against not having a muffler. It's hard for me to tell if somebody has altered the inside of their muffler, but if they violate the sound ordinance, it doesn't matter.

Mayor Coody: I wanted to visit with the folks on the Bikes, Blues, and Barbeque Board so we can use their website. We could basically replicate the Daytona attitude, which is "Welcome to Daytona, please ride quietly." We would like to see the same kind of work done here and we would like to be able to count on the Bikes, Blues, and Barbeque website and their communication network to help spread the work to folks coming to town.

Virgil Neuroth, with the Chamber of Commerce: I think you have a good idea. I think as Brenda has pointed out and by the testimony we just had from the police that getting the people that are involved with issues to talk before it becomes an issue and I think we are moving very fast to handle some of those issues here in Fayetteville before they're problems.

Mayor Coody: If you could get with me on that so we could make sure that gets on the website, it would be very helpful to us. Thanks, Virgil.

Kit Williams: First meeting of September?

Alderman Thiel: That's fine with me unless someone else wants to go on with this ordinance.

Alderman Thiel moved to table this ordinance until the September 6, 2005 City Council meeting. **Alderman Marr** seconded the motion. Upon roll call the motion passed unanimously.

This Ordinance was Tabled until the September 6, 2005 City Council meeting.

Black & Veatch Amendment No.1 Noland Wastewater Treatment Plant: *This item was tabled at the May 3, 2005 City Council Meeting to the May 10, 2005 Special City Council Meeting.*

This resolution was passed at a Special City Council meeting on May 10, 2005.

NEW BUSINESS:

Amend § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson: An ordinance to amend § 97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) Permits and (C) Fees.

Mr. Williams read the ordinance.

Alderman Thiel: Some of the Fayetteville stalls are being used as storage. I think everyone agrees that it is actually good for the elderly people to utilize the lake and help benefit the lake. But, the people that are just using those as just storage, it concerns me that they are being charged the same basically good fair rate and they're actually taking space from someone that might want it. Before I support this, I'd like to find out how many are being used just to store boats and if there's some way that that could be tracked. That's one of my concerns.

Connie Edmonston, Parks and Recreation Director: I think it's pretty much hear say from our current boat dock contractors that there are several people that do not always use it or they let other families and friends use their boat and their boat stall. But, I have never had a real number. I have heard Mr. Black say several times that there are several people that do that. How we would track it, we would have to come up with some type of measuring device if you don't use it so many times a year, then you have to give up that stall. We would have to come up with some kind of policy that would be fair. We always have to keep in mind that people do have their bad years where they have an operation or something happens in their family where they just aren't going to get out to the boat stall that often that year. It's going to be very difficult too. We could keep track as to the days, but it's going to go back to the stall rentals to report the days they are there. There could be some difficulties in executing some type of policy. We could do so if you did desire. I understand; I want as much good usage out there as possible. I don't want it used as just a storage unit.

Alderman Reynolds: I'd like for Connie to contact both boat dock operators and find out how many are out there and if they're using them in that way. Both operators know who they are.

Connie Edmonston: Yes.

Alderman Reynolds: I've visited with them before about that and there's some boats out there at Lake Fayetteville that hadn't been looked at in five or six years.

Connie Edmonston: I can do that. But actually, that would not probably change. If we changed the rates that would just be a policy change that we would have.

Alderman Reynolds: We may have to make a policy on this end stating that if you don't use it, you lose it.

Alderman Marr: I don't really care for the way this review process is getting a recommendation with one set of information but not having that information taken in totality to the Parks Board. The Parks Board looks at the information without having the information we had, to make a different recommendation back to the full Council. It seems to me that if we're going to get the Parks Board recommendation, we need to get it before it goes to ordinance review, so we understand what feedback they received so it's not changing. And, if we're going to go the route we did, we should give the Parks Board the same information the Ordinance Review Committee got.

Connie Edmonston: They had the same information you have.

Alderman Marr: So they had the cost of services, the maintenance costs that were done?

Connie Edmonston: Yes. I can give you the agenda packet that we prepared for them for the March meeting.

Alderman Marr: There just wasn't any discussion in the minutes at all related to that item, so that was not a point of consideration.

Connie Edmonston: It was my recommendation to wait and let the public have another month for input, even though we did post the new fee recommendations at the boat docks.

Alderman Marr: There is no discussion in the minutes about the cost to operate these boat docks. Although there is no comparison between boat docks at Lake Fayetteville and boat docks at surrounding areas, the information we were given was that the next closest boat dock rental price was \$700. The advantage of the City of Fayetteville boat dock storage was the proximity to town. Alderman Farrell I think shared a concern after an Ordinance Review Committee meeting, that even if we moved the increases at all, we should stagger them, which I thought was a good point. I feel like we didn't suggest as large of an increase on out of city residents in this area, where we have a large gap, where we have a large waiting list, and where we have people storing boats. So, it seems to me that we kind of throw out the cost of maintaining these. One of the concerns was that Sequoyah's boat docks were in such disrepair, we shouldn't be able to charge what we would have charged in comparison to Lake Fayetteville. And, the reason we don't maintain that is we don't collect enough revenue to maintenance it.

It's an item I think we need to look at when we're setting these fees. You can have fees and you have senior citizen discounts fees if that's a consideration, but to me, there should be a bigger gap between city and non-city residents and there should be a plan to get this closer to the 75% user fee cost that the Ordinance Review Committee sought.

Mayor Coody: Do you have a recommendation?

Alderman Marr: I think we made one earlier.

Alderman Thiel: We made one and we asked for that and we did not get it. We did not receive that information, so we're not even sure what recommendations we made.

Connie Edmonston: Ms. Thiel, are you relating to the Ordinance Review recommendations that were on this chart or are you relating to the given policy.

Alderman Thiel: The ordinance review recommendation is there?

Connie Edmonston: Yes.

Alderman Marr: Where is the recommendation the Ordinance Review Committee received from the staff on the user fee policy?

Alderman Thiel: We reduced it from that.

Connie Edmonston: There's the cost of the lake budget, revenues, and then the recovery rates at the bottom of the chart.

Mayor Coody: It sounds like the Council is not ready to make a decision on this tonight. Do you want to table this until we hammer these issues out?

Alderman Thiel: Yes, because we didn't get some of this information until after the agenda meeting.

Alderman Marr: Obviously we have a Parks Board to get feedback and get recommendations from and I'm not trying to circumvent that process. We had two aldermen that went to that meeting and testified in the minutes about why we need to have rates that are lower. I'm not opposed to that. What I want to better understand is that we were told we had a waiting list of 35-40 at the Ordinance Review Committee meeting, and we have heard since then that we have people storing boats at a \$325-\$350 rate, when the next closest rate, outside of the City of Fayetteville is \$700. To me, if we're going to give a break, we ought to have a bigger spread between city resident's and non city residents and we should address the boat storage issue before we pass it. That's what I would like to see before the next meeting.

Connie Edmonston: I agree.

Alderman Farrell: I agree with Alderman Thiel and Alderman Marr about the people that are using that for storage. In reading the ordinance that was passed in 1999, which is an amendment, it says that the boat space can be terminated if you violate any of the rules. If we simply insert a rule that says if the stall is used for storage instead of fishing, and we could come up with a definition for that, I would be all in favor of doing that. I don't want to start a rate war with the

town north of us. I would support changing this to get rid of the people that are using it for storage.

Mayor Coody: So is the intent to send this back to Ordinance Review, back to the Park & Recreation Board, or leave it on the first reading?

Connie Edmonston: Do you all have a feel for how many times you want them to have to use their boat before we say they have to leave? That's going to be the question.

Alderman Thiel: Some of the boats have sat out there for 3 or 4 years.

Connie Edmonston: Years ago, we did have land storage back in the 80's and I believe it lead into the early 90's. However, that got to be very tedious to maintain and we had some problems with them being too open and items were being stolen out of their boats.

Alderman Reynolds: We almost never got that mess cleaned up.

Connie Edmonston: It was a mess.

Alderman Farrell: I would say that if they don't move it a couple times a year, they aren't fishing. If somebody has a better number, I'm willing to listen. But I agree with you, Connie, it's good to have a number.

Gary Dumas, Director of Operations: I think there are two issues we're talking about. One is the utilization of the facilities and the other was revenue collection based on the expenses of the lake operation. In the report, we had 2,005 predicted revenues. The ordinance review recommendation would have recovered about \$65,000 and the Parks Board recommendation would have recovered a little over \$80,000. So, the Parks Board recommendation recovers about 98% of the Parks and Recreation's direct cost as compared to about 79% of the ordinance review recommendation. I think that although we can still look at making sure there is utilization of the facilities for the benefit of all the users, from the revenue generations which is what we were trying to do, it would appear that the Parks Board has significantly increased the Ordinance Review amount and even the predicted revenues based on the old fees of about \$48,000 back when we did the budget last November and December.

Alderman Marr: The difference between the Parks Board recommendation and the Ordinance Review's was we didn't recommend changing permitting fees to actually fish and use the lake. We did not recommend increasing fees for boat usage in the lake. We wanted people using the lake. We were ok having it meet our 75% recovery cost because citizens pay taxes for our parks, and this lake is a park. While the Parks Board recommendation might get 98% of the fee, they went completely opposite in the direction of charging fees for use, which was opposite of the Ordinance Review Committee's recommendation. And, the area we thought was under-covered is the area that they reduced.

I think we have two concerns on this, and one is that our message was not totally to get to 100%, because we were looking to get to maintenance cost review. But, when we heard senior citizens used it, we wanted them using the lake and not having it go from \$1 or \$2, which I think is what it was, to \$6, which is a 300% or 400% increase, which is where the bulk of the revenue was, which is why the numbers turned out the way that they did. So, it was just a philosophical difference of what pieces we wanted to cover. We didn't see high impact of usage for someone

putting their pole in the lake, which is where the Parks Board increased the rates. We saw impact, usage, and maintenance of our stalls.

Alderman Reynolds: But Don, on the other flip of that coin, all the people that showed up at that meeting agreed with this program and they also said that if it didn't work, they were willing to come back and look at it again to make it work. But, they were satisfied with what the Parks & Recreation Board had come up with on all the fees.

Alderman Thiel: Tripling the boating fee, daily. They were ok with that?

Alderman Reynolds: Yes. Everything in the proposal.

Alderman Rhoads: Could we also see what the going rate is for boat storage in the Fayetteville/Springdale area? When you bring back the rest of the information, would you add that to it, please?

Connie Edmonston: Yeah. I have the benchmark in the packet for Beaver Lake.

Alderman Rhoads: Not Beaver Lake. It's boat storage.

Connie Edmonston: Oh, boat storage. Ground storage, you mean?

Alderman Rhoads: Whatever would be comparable to what they're doing.

Connie Edmonston: I don't know of any. I do not know of a public place that you can store a boat by water, comparable to what we have. Dry storage, I can get that.

Alderman Marr: Mayor, if we could validate what the waiting list is for these boat docks, if there really is one or not one.

Alderman Lucas: I'd like to know the percentage of in-city and out-of-city renters of the boat docks.

Connie Edmonston: That actually is on our report for Lake Fayetteville. There were 24 Fayetteville residents and 20 non-residents at Lake Fayetteville. So it's pretty split.

Larry Aggus, Owner of South Town Sporting Goods: I am interested in seeing that everything's fair and equitable out there. The thing I want to stress is that I think all the users of these facilities should be held equally responsible for what they do. And, it seems to me that the fishermen are being kind of singled out. I may be wrong. But, they pay a fee. I don't see where we do a lot for them to fish. They go to the lake and they fish. I agree you need a control of the access, because if you don't, you'll have a mess out there. I think maybe just a nominal use fee of 1\$-\$2 would be good. I would like to see that considered very seriously for the day the person goes in. For the stall rental, I have no input on that. Springdale doesn't charge a fee to use Murphy Park or their lakes. Most of them don't charge anything. But, I think a small fee would be good and it would help control access. There are a lot of places to get into it and as it is now, there's one place you can come through to get a permit, and you can control the access to that facility. I think that's been good and it has obviously been in the books since 1965. But, I hope you look really hard at the day use on this facility and try to weigh everything. I'm seeing, what

seems to me kind of an unfair assessment or penalty charged to fisherman and I don't know why. I'm sure it's been that way for years. Let's try to keep it at a minimum.

Alderman Thiel: I think the point he made is very good, and everyone really does need to look at this rate. The Parks Board recommendation went from \$1 to \$5 per daily boating for seniors. I think he made some valid points.

This Ordinance was Left on the First Reading.

Washington County Cost Share for Woolsey Farm Road & 54th Street: A resolution authorizing the payment of \$95,686.00 to Washington County as the City of Fayetteville's share of the cost of Improvements to Woolsey Farm Road and 54th Street along the southwest perimeter of the Westside Sewer Treatment Plant; and approving a 20% project contingency in the amount of \$19,137.00.

Gary Dumas, Director of Operations: We have some updated numbers on that that we just received today. You have a memo I think in front of you. The total project cost is about \$186, 940. The city's share of that is \$93,470.27 with a 10% project contingency. That would bring the total project up to \$102,817.29 verses the numbers the mayor just read.

Kit Williams: There will need to be a motion to amend the resolution to the one I just handed out. There is also a new section 3 there.

Alderman Rhoads moved to amend the resolution. Alderman Reynolds seconded the motion. Mayor Coody asked shall the motion pass. Upon roll call the motion passed unanimously.

Alderman Jordan moved to approve the resolution as amended. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 100-05 as Recorded in the Office of the City Clerk.

RZN 05-1448 (Staggs): An ordinance rezoning that property described in Rezoning Petition RZN 05-1448 for property located at 2824 S. School Avenue. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare.

Mr. Williams read the ordinance.

Jeremy Pate, Director of Current Planning: The Planning Commission voted 8 to 0 to recommend approval of this rezoning request to the City Council from RSF-4 to C-2 Thoroughfare Commercial. Properties located across from McBride Distributing Facility and the Tyson Plant area, on South School, which is zoned I-1. There are also adjacent properties zoned C-2 to the north. As you're well aware there are several bail bondsmen in this area, primarily because of the Washington County jail facility that is in this area. A question was asked at agenda session about remedial measures and how we're not typically supportive of a business that goes in illegally and then is the track that they come. However, this is the remedial process that the city does have. There was no permit required for someone to go into this house and put

up a business, except for their sign and that's originally how we caught that, as a violation notice was issued and this is a remedial measure. If the rezoning is denied, that business person will have to move from that place of business and we would follow suit with the prosecutor's office to do that. However, we feel that the future land use plan in this area does promote this type of development and we're supportive of this rezoning application to C-2.

Alderman Thiel: All the neighbors have been notified, and there were no objections?

Jeremy Pate: No.

Alderman Thiel: And residential zoning will remain on 2 sides? The back and the south side?

Jeremy Pate: On the south side, there is a rezoning request that the Planning Commission will be looking at either this coming meeting or the following for the bail bondsman office that is going in there as well. There is a request for a C-2 zoning on that property as well.

Alderman Thiel: So that would make that whole strip from Country Club Road down to Peach?

Jeremy Pate: There may be one lot. I'm not exactly sure because I haven't reviewed that in total, but I know that the address next to this has a request for a rezoning application on that one as well.

Alderman Thiel: None of the residences, west of there on Hayden, have objected?

Jeremy Pate: We have not heard anything from any adjacent property owners.

Alderman Thiel: Have they all been notified or do they have to be touching the property, those on Hayden?

Jeremy Pate: We typically notify property owners even from across the street, even though this is not required by the city. For instance, McBride Distributing should have received notification. I can verify this for you if you'd like, and we can double check to make sure these residents have been notified if you choose to leave this on this reading tonight.

Alderman Marr: Jeremy, in our packet on the close-up view of the subject property, the property you're speaking of coming to Planning Commission, is that the property north, between the current C-2 and this requested property?

Jeremy Pate: That property is already zoned C-2. The label is shown higher up.

Alderman Marr: What about this house on the property just south of it that is crossing the line?

Jeremy Pate: That's a product of an old aerial photograph. Most of the state is taken off aerial photographs and these maps are then generated from that. There's probably a situation where that's just a wrong location.

Alderman Marr: Are all the properties across the street from Hayden Avenue still RSF-4?

Jeremy Pate: That is correct. Across from Hayden Avenue and to the east, you can see on page 14 of 16, those properties to the east are zoned RSF-4. There's an old subdivision that has never been developed except for those two streets, Hayden and Denver are the only two.

Alderman Marr: Are bail bondsmen offices not allowed in residential office?

Jeremy Pate: I do not believe so. I think we checked that use unit to see if that was a potential for this area. I know we've checked that on 6th street before, because that particular strip area is designated mixed use, as opposed to the community commercial that this is designated and I believe that we have designated a use unit to that that is not allowed in the PRO district.

Alderman Marr: It concerns me that with that street directly across Hall being single-family residential and the one south of it. Typically, we see zoning transitions from industrial, commercial, residential office. I'd be more comfortable with it if it was an R-O zoning, but if it's not allowed, then it's not allowed.

Jeremy Pate: We've assigned use unit 16 to bail bondsmen, under shopping goods and I do not believe that is allowed in the R-O zoning district. I can find out.

Alderman Marr: Could they have done a conditional use on the property?

Jeremy Pate: No. Use unit 16 is not allowed by right or conditional use in an R-O Zoning district.

Mayor Coody: Could they have done a conditional use?

Jeremy Pate: No, sir.

Alderman Marr: Thank you.

Russell Staggs, citizen: To the west of us is where the Tyson plant and jail facility are and to the east, there are houses behind the road. We own the two lots there, and right next to our property line is another bail bond business. There's not much room from the back of the house to the street.

Alderman Thiel: My concern was if everyone was notified or not.

Jeremy Pate: I can verify that for you if it's the Council wish to leave it on this reading for the next meeting. We have certified mail receipts for every mailing that has been sent out.

Alderman Reynolds: I wouldn't mind going through two readings, but I'd like to see those copies for the third reading.

Alderman Lucas: I don't like businesses to move in and then we have to rezone to fit whatever has already moved in.

Alderman Jordan: I would tend to agree with Shirley. We've seen that in our ward a time or two and it never does work out very well.

Alderman Thiel: As Jeremy pointed out at the Council tour, this gentleman really did assume that that was commercial.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Farrell: Have you lived there quite a while or did you recently get the property and decide to go into business?

Mr. Staggs stated that bail bondsmen often move their businesses to be closer to the jails. He said that the property owner thought that the property had already been rezoned and that the property was commercial already, but was not aware of any paperwork that the owner possessed as evidence of the land being commercialized.

This Ordinance was Left on the Second Reading.

RZN 05-1450 (Stonebridge Meadows Phase V): An ordinance rezoning that property described in Rezoning petition RZN 05-1450 for property located at Goff Farm Rd., east of Crescent Lake Subdivision and west of Stonebridge Meadows Golf Course. The property is zoned R-A, Residential-Agricultural and contains approximately 26.61 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate: This property is located on Golf Farm Road, and this is intended to be another phase of the Stonebridge Golf subdivision that is rapidly developing around the golf course. To the west is a tributary lake; to the west of that is Crescent Lake subdivision, which is listed there in your ordinance. I believe one of the holes for the golf course is located to the east of this property. One of the holes for the golf course is between this property and Stonebridge Meadows Phase 1. The Planning Commission did vote 8-0 to forward this item with recommendation for approval. We did not receive any public comment at the Planning Commission meeting. I would like to mention that it is currently a vacant pasture, and this property is within the bridge assessment area for Dead Horse Mountain Road. Therefore, at the time of development, there will be a calculation made for assessment for that bridge.

Alderman Cook: Is the bridge assessment done as one lump fee up front or is that assessed as the lots are sold?

Jeremy Pate: It's part of final plat, so it's a lump fee and is based on the vehicle trips that are generated by that development.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Thiel: I haven't had any calls about this particular rezoning. I think people are concerned about the growth in this area, but I haven't had any calls about this one.

Alderman Reynolds: No phone calls.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Cook: I wanted to make a comment that Alderman Reynolds made at the Street Committee meeting about widening Hwy 16 out there. He makes a good point that we should widen it further out because of reasons just like this. We're putting more houses out in this area, so I just wanted to make that comment real quick.

Alderman Thiel: I wasn't at the last street meeting, but I had mentioned that at the prior one. At the next street meeting, we're both going to suggest that we extend the highway and try to get a cost estimate and add that into our street package.

Alderman Reynolds: The neighbors out there also suggested that we go to the bridge. We would just go to the bridge and later work on the rest of it.

Alderman Lucas: Is there any way the state will help us with that? That's a state highway.

Mayor Coody: I'll ask.

Alderman Thiel: We're possibly going to break down the bond issue, and if we do that, we'll look at some things that are more long range.

Alderman Lucas: I think it's very necessary, but I also think that since it's a state highway, it couldn't hurt to ask.

Mayor Coody: Once we get a finalized picture of what it is we want to do and pull out the state highways, which are the bulk of what we want to do, and then we'll talk to the Highway Department about what they can do to help us out.

Alderman Cook: It speaks a good case for impact fees also.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4701 as Recorded in the Office of the City Clerk.

VAC 05-1435 (Aspen Ridge): An ordinance approving VAC 05-1435 submitted by Matt Crafton for property located near 6th Street and Hill Avenue, vacating right-of-way for Duncan Avenue and Anderson Place on the subject property.

Mr. Williams read the ordinance.

Jeremy Pate: Members of the Council, you might remember the Aspen Ridge plan zoning district that was approved back in January of this year for infill development of 220 condominiums at 6th and Hill Avenue. Part of the conditions of the approval of that project was vacation of right-of-way for a portion of Duncan Street and a portion of Anderson Place that was on the subject property and had never been constructed to their street standards. They did provide access to the homes that were there, which have since been removed. The project on page 11 of 30 indicates the new alignment of the streets as part of the planned zoning district project and does allow for the connectivity that the city does desire to keep in that area. Therefore, we are recommending that these existing rights of way be vacated and that the new rights of way be dedicated as part of the conditions of approval for this project. The Planning Commission did vote 8-0, after discussion, to forward this item to the City Council on April 25th, and there were no objections submitted.

Matt Crafton, with Crafton, Tull and Associates, representing Hank Broyles and Hale Forsyth: Good evening Mayor and City Council. Jeremy has done a very good job of what we're asking for. There is some existing right-of-way there that does need to be vacated as part of this project and we're actually giving the city much more right of way than they have right now. We'd be happy to answer any questions you might have and hope for your support.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4702 as Recorded in the Office of the City Clerk.

VAC 05-1440 (Waitsman): An ordinance approving VAC 05-1440 submitted by Jeff Martin for property located at 3565 Natchez Trace, Savanna Estates, vacating a portion of a drainage easement as indicated on the attached map and legal description.

Mr. Williams read the ordinance.

Jeremy Pate: This vacation request is a much smaller vacation request, and it's of an easement as opposed to right-of-way. Actually, it's not a full utility easement; it's just a drainage easement. The city does have a 30 inch drainage pipe located within this easement. The Transportation/Engineering Division did field inspect this request and determined that vacating this easement will not adversely affect the city's ability to service and maintain this city infrastructure. No objections were submitted to this request and the Planning Commission did vote 8-0 for approval.

Alderman Rhoads: Mr. Mayor, neither the builder nor the petitioner could make it, but I did talk to the petitioner today and I hope that we support moving this through on 3 readings.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4703 as Recorded in the Office of the City Clerk.

VAC 05-1453 (St. James Missionary Baptist): An ordinance approving VAC 05-1453 submitted by Steve Clark for two alleys and an unobstructed street located at the southeast corner of Rock Street and Willow Street as described on the attached map and legal description.

Mr. Williams read the ordinance.

Jeremy Pate: The St. James Missionary Baptist Church has recently submitted a conditional use request and large scale development plans for construction on this property, which contains about 5 acres. Staff has been meeting with the applicant and their representatives in the past months to bring forward a project that would meet the need of the church and benefit the community, while meeting city ordinances. The site plans currently submitted, however, do not allow for the construction of this structure with the existence for the platted rights-of-way, which is the subject of this request to vacate those rights of way. The property was originally platted as part of Hills Addition in 1905, with many small residential lots, but has not been developed or used as such. Along with the lots, there is a system of platted allies and a 40 foot wide street, known as Southern Avenue that has not developed within that 100 year period. The applicant is proposing to vacate those streets and allies that are on the subject property and shown on your maps that are attached. The findings that we utilize for this are again shown in your warehouse clauses under the ordinance. The city staff determined that there was not a useful corporate purpose for these streets and allies. Also, there was a time period exceeding the 5 years. In fact, it has been 100 years in this period that those streets and allies have not been utilized for public purposes. Therefore, the city staff recommended to the Planning Commission and to the City Council, approval for vacating these existing rights-of-way. The Planning Commission voted 5-3 to forward this item with the recommendation for approval. There was one public comment to the east of the property. It is not subject to one of the vacation requests. However, there is an alley there along the east of the property that's not being requested to be vacated, and that property owner simply stated that he would like have that retained as an alley.

Alderman Thiel: Basically, you are going by this preliminary plat that we have at this time. The street obviously goes right through the proposed building site, but why does staff see the need to vacate the alley?

Jeremy Pate: The request came from the applicant to vacate all of these allies, because obviously those would be public rights of way maintained and owned by the public, in the

middle of a private development. We did not feel that with any type of development, whether it's a church or not that that type of development would necessarily benefit from the use of that alley system in this case.

Alderman Thiel: Has any of the alley been vacated down to Walker Road, or is it still currently in existence?

Jeremy Pate: I believe it is in existence. The alley from Rock Street to Walker is all still in existence, but it has not been utilized to the best of my knowledge.

Steve Clark, representing St. James Missionary Baptist Church: Jeremy has pretty much covered all of the issues. If you have any questions, we'd be happy to answer those.

Mr. Williams: I'd like to note that somehow I missed section 3 when it went through. That doesn't need to be in there, because there's no emergency clause. So if you would move to remove section 3 and make section 4 the new section 3, I would appreciate that.

Alderman Jordan moved to amend the ordinance to remove Section 3. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr: I'm going to support this on the requirements on vacation, but when I'm looking at page 15 of 18, having gone on tour of this site, I think the slope is 15-33%.

Jeremy Pate: Somewhere in that range.

Alderman Marr: It concerns me, in this layout that a 26,000 sq. foot building is on a hillside with a slope of 15-33% on a one flat building with parking and the cut that would need to be made in the site to build this. So, I'm hoping that in large scale development, that the Planning Commission and Planning staff will really look at tree preservation and hillside cuts, drainage, and grading issues as it relates to this land. But, I don't think that relates to the vacation tonight, but I do want on record that I don't think we should allow the kind of things to happen that we're trying to prevent in our Hillside Ordinance Study.

Alderman Farrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4704 as Recorded in the Office of the City Clerk.

VAC 05-1454 (Hargus): An ordinance approving VAC 05-1454 submitted by Marla and Robert Hargus for an alley located East of Hill Avenue within Dowell's addition as described on the attached map and legal description.

Mr. Williams read the ordinance.

Jeremy Pate: This property is located as mentioned in the Dowell's addition on Hill Avenue, directly south of the Aspen Ridge project we just recently saw. The property owner owns property on both sides of this alley and therefore vacating this alley would allow utilization of that property for some potential single family or multifamily developments in the future. The 20 foot alley was dedicated at the time the property was subdivided and the southern portion of the alley has actually already been vacated by the National Cemetery and Improvement Corporation back in 1999. Therefore, it does not lead anywhere; it is simply bisecting this property. The applicant is requesting to vacate that 20 foot wide alley, and the Planning Commission voted 7-0 to recommend this for approval to the City Council.

Alderman Lucas: I just wanted it for the record that you did say that we are only changing it from an alley and we still have the easement?

Jeremy Pate: That is correct. In section 4 of the ordinance, it states the Planning Commission recommendation and staff reports for this vacation approval are part of the exhibit and will be filed as such. And, one of the conditions of approval is that that be maintained as a utility easement.

Alderman Lucas: Thank you.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4705 as Recorded in the Office of the City Clerk.

VAC 05-1456 (Reindl): An ordinance approving VAC 05-1456 submitted by Mandy Bunch for property located at 580 West Meadow vacating two sewer easements as indicated on the attached map and legal description.

Mr. Williams read the ordinance.

Jeremy Pate: The final vacation request tonight and is an easement vacation on a piece of property approximately 2.4 acres in the downtown area. It is west of the Nadine Baum Center,

back behind the Rendell buildings that are currently being renovated. The applicant has secured approval from the Planning Commission to construct a 30 unit multifamily condominium style development on those 2.4 acres. There were warehouses on this property that were utilized many years ago and sewer lines underneath where those warehouses once stood. Those have since been raised and removed. Part of the conditions of approval for this project was that these easements be vacated and that the sewer lines be rerouted. Therefore, this is the subject request to do that very thing. The Planning Commission did vote 8-0 to forward this item to the City Council and staff is recommending an approval of an ordinance vacating these utility easements.

Alderman Marr to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4706 as Recorded in the Office of the City Clerk.

ADM 05-1514 (Sloan Estates) Master Street Plan Amendment: A resolution approving ADM 05-1514 amending the Master Street Plan, realigning the proposed Sagely Lane, designated a minor arterial, in the manner approved by the Planning Commission for Sloan Estates Preliminary Plat (PPL) 04-1338.

Jeremy Pate: This is an item that was added at the City Council agenda session, and we've included in your packet. This property is located on Gully Road and is contains about 32 acres. A preliminary plat was approved by the Planning Commission to create a 62 lot subdivision with 57 single family lots. It is located in the planning area east of the city limits. In 1997, the owner of the property requested and was approved for a lot split on this particular property per our Master Street Plan right-of-way dedication requirements. Right-of-way dedication was required by the Planning Commission. The applicant appealed the decision to the Council in 1997, and the City Council passed a resolution to modify the conditions of approval in lieu of dedication of a 90 foot right-of-way. The applicant filed a warranty deed to restrict development on the 90 foot strip across the land, as depicted on the Master Street Plan. Essentially, it was a deed restriction as apposed to right-of-way dedication. It is now 2005, and the property is under development, and the actual alignment of that Master Street Plan has changed somewhat and moved to the south. Of course, that resolution is still in effect and there is still a deed restricted area on which no lots could contain homes, so staff is bringing forward this resolution that is in your packet. In two fold, both to amend the Master Street Plan to indicate that the minor arterial in this location will shift south and to release the deed restriction on that particular piece of property.

Alderman Thiel: So basically all this is doing is just moving the street?

Jeremy Pate: That's correct. It's two-fold. There is a deed restriction by resolution, so it is removing that and it is simply acknowledging that the same connectivity is being maintained. It's just in a different location a little bit further south. You can see on the exhibits there what the difference is.

Alderman Thiel: And the deed restriction goes away then?

Jeremy Pate: That is correct.

Alderman Thiel: Ok.

Nancy Wolf, a resident: The residences of this area have been following this development very carefully, trying to follow the approval process. And, as far as I was aware, it has not been finally approved yet. It was still in the County Planning Office. There is dirt work and everything already being done out there, and I was just concerned. Can developers start on the roads and start on the retention ponds before the final plats are approved?

Mayor Cody: Generally Not.

Alderman Jordan: That's a really good point.

Jeremy Pate: They can begin construction before final plat if they have received construction plan approvals from our City Engineering Divisions. I'm not sure where they are in the County process. The County also has to approve a preliminary plat, because this is within the planning area. Mr. Art Scott is the engineering representative for the applicant.

Art Scott, engineering representative for the Sloan Estates applicant (petitioner): This was approved at the County Planning Commission for preliminary plat and the County Road Department has approved it for construction. Bonds were submitted and they approved the start of construction after the pre-construction meeting was held. So, they started construction. In the mean time, we got this item submitted to you to clarify the final alignment of that Master Street.

Mayor Coody: Thank you, Mr. Scott.

Alderman Thiel: I don't have any problems with realigning this street and that's all we're doing here. I do have a concern for the lady that spoke earlier. Obviously, the neighbors out there want a chance to express their feelings about this. Is there another meeting on the County level where they'll get to do that?

Jeremy Pate: We did have quite a bit of public comment. This project was redesigned several months later and resubmitted in a couple of different manners before the Planning Commission did approve this project. So, we had a lot of public comment at all of those meetings. Additionally, I believe the County does take public comment at their Planning Commission meetings as well. Essentially, what has been approved is the preliminary plat construction plans. The only other item that would come before the Planning Commission for public hearing would be the final plat, which is essentially showing the final plat document and having inspection of all the streets and everything that has been constructed. That's the only other item that we would have.

Alderman Marr moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 102-05 as Recorded in the Office of the City Clerk.

PUBLIC HEARING:

A Limo For You Certificate: A resolution granting a Certificate of Public Convenience and Necessity to A Limo For You for the operation of up to three (3) limousines within the City of Fayetteville, Arkansas.

Captain Brown: I've received all the necessary paperwork. I did mention at the agenda session that since I submitted the application and financial statement, that I had received proof of insurance. After reading that document, I believe it's a finance agreement for insurance. It says auto insurance; I don't have any vehicle specified on this document, so I will be getting that from them, that they have proof of insurance on each of their automobiles. On the next one, Luxury Limo, I have provided you with copies of the insurance cards from each of those vehicles. This document that was faxed to me, after I submitted all of the paperwork, is a finance agreement for all of the insurance. It does say auto insurance and it is in the applicant's name, but I just don't have the specific vehicles that the insurance covers.

Mayor Coody: Are you comfortable, if we were to approve this tonight, that you'd be able to get all that paperwork?

Captain Brown: I'll get with them and get them to provide it. The state law would require that they have that proof of insurance in the vehicle anyway. So, I can get that proof from them. They're asking for 3 vehicles. Currently we have 17 limousines approved.

Alderman Reynolds: I'm just glad we've got some really good companies stepping forward and giving us some good service. It has been a long time coming. Mr. Brown, thank you for following through with a good program.

Officer Brown: We're working on it. Some of the research we have to do on backgrounds and so forth takes a little bit of time, but it's worth it to get quality people driving these vehicles.

Alderman Reynolds: I'm glad you're doing it.

Mayor Coody: Yes, good job.

Alderman Reynolds moved to approve the resolution. Alderman Farrell seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 102-05 as Recorded in the Office of the City Clerk.

Luxury Limousine Certificate: A resolution granting a Certificate of Public Convenience and Necessity to Luxury Limousine for the operation of two (2) limousines within the City of Fayetteville, Arkansas.

Alderman Cook: It seems like we've approved a lot of limos. Did Mr. Curry bring taxis before us? How many taxis have we approved?

Captain Brown: I didn't bring the number for taxis. We had 17 limos, and now we have 20 limos with the three you just approved. With this one added, it would be 22 limos total.

Alderman Farrell moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 103-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 8:00 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

OFFER AND ACCEPTANCE CONTRACT

1. The **City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTIONS
2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$27,000.00**.
3. **Contingent Earnest Money Deposit:** The City of Fayetteville will forward a check for **\$2,700.00** to **Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997**, as earnest money, upon acceptance of this offer, which shall also apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997. If title requirements are not fulfilled or Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill their obligations under this contract or, after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, become liquidated damages to Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
5. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville and Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall share equally in the cost of the title insurance.
6. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, agrees to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within sixty (60) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.
10. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, hereby grants permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
13. Water tap to barn will be made off of existing line within thirty (30) days after approval of this Offer and Acceptance Contract by Fayetteville City Council. When a new waterline is extended to lift station site, water taps for house site and barn site (both fronting on Sunshine Road) will be made off of new line.
14. An 8" sewer line will be extended off of the 24" line south of Sunshine Road. A sewer tap will be made to the new house site (immediately north of old house site) off of the 8" line. Also, a sewer tap off of the 8" line will be made to barn site.
15. Screening around the lift station site will consist of a fence and two rows of evergreens (one row fast growing pines and one row slower growing evergreens).

16. Site of old lift station on south side of Sunshine Road will be leveled, graded, seeded and strawed, returning the site to a grassy area.
17. This agreement shall be governed by the laws of the State of Arkansas.
18. This agreement, when executed by both the City of Fayetteville and Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
19. This contract expires, if not accepted by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, on or before the 16th day of ~~May~~ ^{June}, 2005.
20. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
21. **NOTICE:** THE CITY OF FAYETTEVILLE ASSERTS AND CHARLES E. SCHARLAU, TRUSTEE OF THE CLYDENE SCHARLAU TRUST DATED DECEMBER 22, 1997, HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE \$2,700.00 EARNEST MONEY DEPOSIT.

Clydene Scharlau Trust dated December 22, 1997


Charles E. Scharlau, Trustee

Date: 5/31/05

N/A
Agent or Witness

Date: _____

City of Fayetteville, Arkansas,
A municipal corporation

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____



EXHIBIT "A"
PROPERTY DESCRIPTIONS

Lift Station Site:

A part of the North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, being more particularly described as beginning at a point North 02° 31' 30" East 526.54 feet of the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 59° 30' 30" West 105.87 feet to an iron pin at a fence corner; thence along an existing fence line North 03° 54' 44" East 108.13 feet to an iron pin at a fence corner; thence along an existing fence line North 82° 38' 48" East 45.90 feet to an iron pin; thence continuing along said fence line North 82° 37' 18" East 149.83 feet to an iron pin; thence South 06° 42' 15" East 145.72 feet to an iron pin; thence Southeasterly along a 100 foot radius non-tangent curve to the right a distance of 60.30 feet, said curve having a chord bearing and distance of South 63° 19' 13" East 59.40 feet; thence South 46° 02' 30" East 92.55 feet to a nail and cap in the centerline of Sunshine Road; thence along said centerline South 69° 08' 16" West 44.75 feet; thence continuing along said centerline South 56° 32' 06" West 53.66 feet to a nail and cap in the Hamstring Creek Bridge; thence North 59° 30' 30" West 186.14 feet to the Point of Beginning, containing 1.11 acres, more or less, Washington County, Arkansas. Subject to any easements and/or rights of way of record.

Permanent Easement (north):

A thirty (30) foot permanent easement of equal and uniform width located in a part of the North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 02° 31' 30" East 526.54 feet to a point on the South line of the above referenced property, thence along said South property line North 59° 30' 30" West 105.87 feet to the Southwest corner of the above referenced property, thence along the West property line North 03° 54' 44" East 108.13 feet, thence leaving said West property line North 82° 38' 48" East 45.90 feet to the Point of Beginning; thence North 07° 01' 04" West 237.45 feet back to a point on the West property line; thence along said West property line North 03° 54' 44" East 42.60 feet; thence North 44° 17' 42" East 68.84 feet; thence North 88° 05' 00" East 739.90 feet; thence North 14° 52' 37" East 40.52 feet to a point on the North line of the above referenced property; thence along said North property line South 71° 42' 51" East 30.05 feet; thence South 14° 52' 37" West 61.02 feet; thence South 88° 05' 00" West 750.12 feet; thence South 44° 17' 42" West 45.75 feet; thence South 03° 54' 44" West 28.70 feet; thence South 07° 01' 04" East 234.40 feet; thence South 82° 37' 18" West 30.00 feet to the Point of Beginning, containing 33,738 square feet (0.77 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction Easement (north):

A twenty (20) foot temporary construction and grading easement of equal and uniform width is located along the East and South sides of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 20,831 square feet (0.48 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Permanent Easement (south):

A permanent easement of variable width located in a part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 02° 31' 30" East 526.54 feet to a point on the South line of the above referenced property, thence along said South property line South 59° 30' 30" East 186.14 feet to the centerline of County Road No. 877 (Sunshine Road), thence along said centerline North 56° 32' 06" East 53.66 feet to the Point of Beginning; thence continuing along the centerline of County Road No. 877 (Sunshine Road) North 69° 08' 16" East 44.75 feet; thence South 32° 41' 13" East 21.33 feet; thence North 78° 01' 06" East 117.66 feet to a point on the West line of the Hamstring Sewage Lift Station property (Deed Book 925 at Page 782); thence along said West property line South 11° 08' 00" East 45.20 feet to a point on the North line of an existing 15 foot utility easement; thence along said North line North 87° 00' 34" West 147.80 feet; thence continuing along said North line South 51° 33' 15" West 17.28 feet; thence North 32° 41' 13" West 29.67 feet to the Point of Beginning, containing 4,725 square feet (0.11 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction Easement (south):

An eleven (11) foot temporary construction and grading easement of equal and uniform width is located along the North side of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 1,318 square feet (0.03 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Permanent Easement Description (for 8" extension):

A twenty (20) foot permanent easement of equal and uniform width located in part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence South 87° 22' 00" East 594.27 feet, thence North 02° 38' 00" East 572.98 feet to the Point of Beginning, said point being on the North line of an existing 50 foot utility easement; thence along said North line North 77° 47' 36" East 20.00 feet; thence North 12° 12' 24" West 60.00 feet; thence South 77° 47' 36" West 20.00 feet; thence South 12° 12' 24" East 60.00 feet to the Point of Beginning, containing 1,200 square feet (0.03 acres), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction and Grading Easement Description (for 8" extension):

A ten (10) foot temporary construction and grading easement of equal and uniform width is located along the North, East, and West sides of the above described permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 1,600 square feet (0.04 acres), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

SIGNED FOR IDENTIFICATION:

Clydene Scharlau Trust dated December 22, 1997



Charles E. Scharlau, Trustee

Date: 5/31/03

N/A

Agent or Witness

Date: _____

**City of Fayetteville, Arkansas,
A municipal corporation**

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 31st day of May, 2005.



Jill M. Coddard
Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

Notary Public

MY COMMISSION EXPIRES:

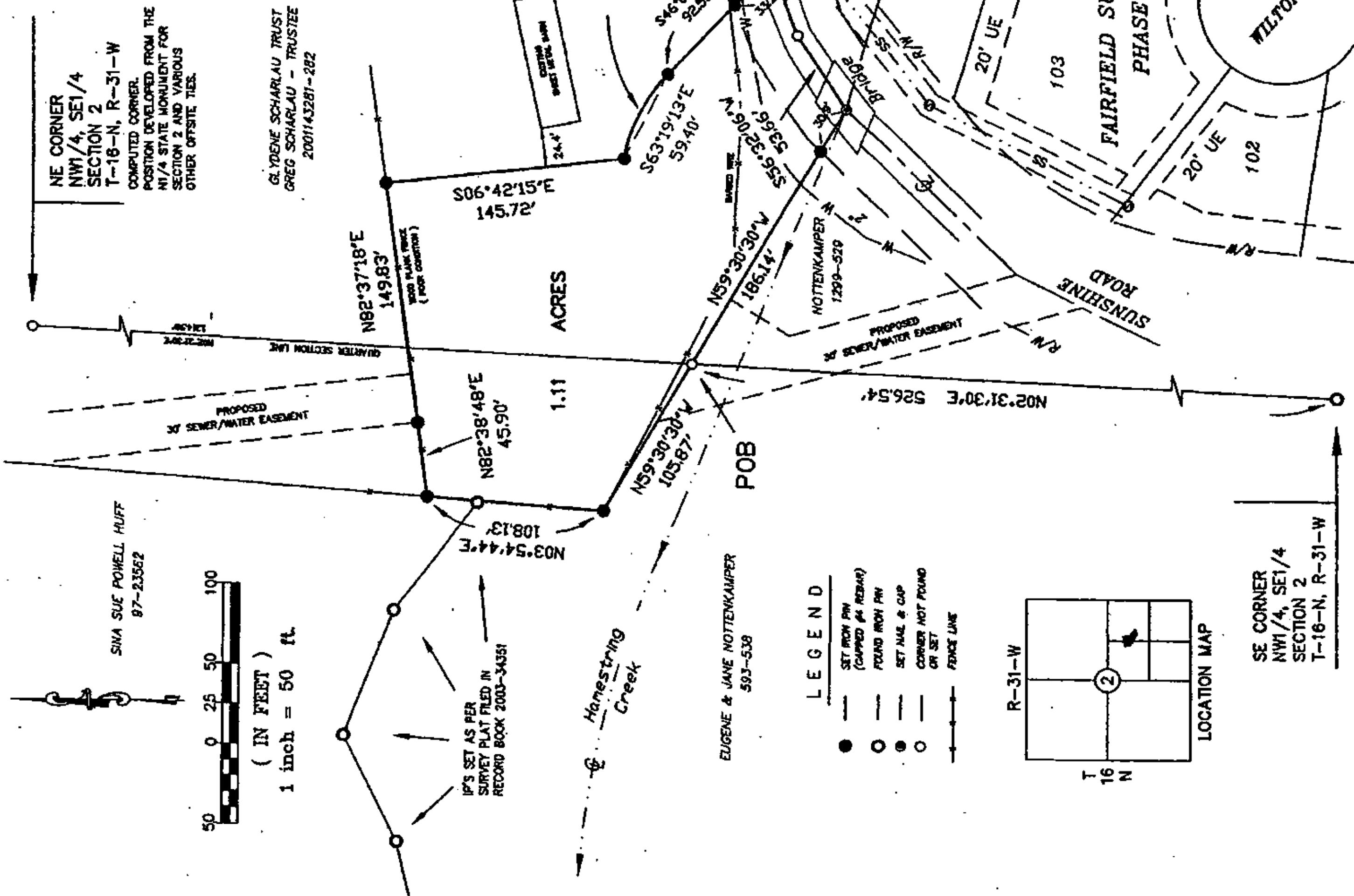
A PART OF THE NORTH HALF (N/2) OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 2, T-46-N, R-31-W, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT NORTH 73°30' EAST - 826.64 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW/4) OF THE SOUTHEAST QUARTER (SE/4) OF SAID SECTION 2, THENCE NORTH 56°30'30" WEST - 105.87 FEET AT A FENCE CORNER, THENCE ALONG AN EXISTING FENCE LINE NORTH 376°45'30" EAST - 108.13 FEET TO AN IRON PIN AT A FENCE CORNER, THENCE ALONG AN EXISTING FENCE LINE NORTH 82°34'48" EAST - 43.00 FEET TO AN IRON PIN, THENCE CONTINUING ALONG SAID FENCE LINE NORTH 82°37'18" EAST - 148.93 FEET TO AN IRON PIN, THENCE SOUTH 84°04'57" EAST - 163.72 FEET TO AN IRON PIN, THENCE CONTINUING EASTERLY ALONG A 100 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT A DISTANCE OF 60.50 FEET, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 83°18'13" EAST - 58.40 FEET, THENCE SOUTH 46°32'30" EAST - 92.60 FEET TO A NAIL AND CAP IN THE CENTRALINE OF SUNSHINE ROAD, THENCE ALONG SAID CENTRALINE SOUTH 49°08'18" WEST - 44.78 FEET, THENCE CONTINUING ALONG SAID CENTRALINE SOUTH 56°03'30" WEST - 83.66 FEET TO A NAIL AND CAP IN THE HANGERSBURG CREEK BRIDGE, THENCE NORTH 69°30'30" WEST - 158.14 FEET TO THE POINT OF BEGINNING, CONTAINING 3.11 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ANY CLAIMS AND/OR RIGHTS OF WAY.

HEREBY CERTIFY THAT THE HEREON PLATTED AND RECORDED SURVEY WAS COMPLETED UNDER MY SUPERVISION, AND THAT ALL NECESSARY ENCROACHMENTS ARE SHOWN, AND THAT THE CORNERS WERE FOUND OR SET, AS SHOWN, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND ABILITY. THIS SURVEY IS MADE FOR THE USE AND BENEFIT OF THE PRESENT OWNERS OF THE PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE HERETO, UPON ONE YEAR FROM THE DATE HEREON, AND AS TO THEM I WARRANT THE ACCURACY OF SAID PLAT.

30' O/S LINE FROM ROAD CENTERLINE
IS SHOWN AS ASSUMED ROAD R/W.
IN THIS AREA, NO R/W DEDICATION
IS FOUND OUTSIDE OF FAIRFIELD SUBDIVISION

PLAT CODE 500-1EN-31W-0-02-240-159

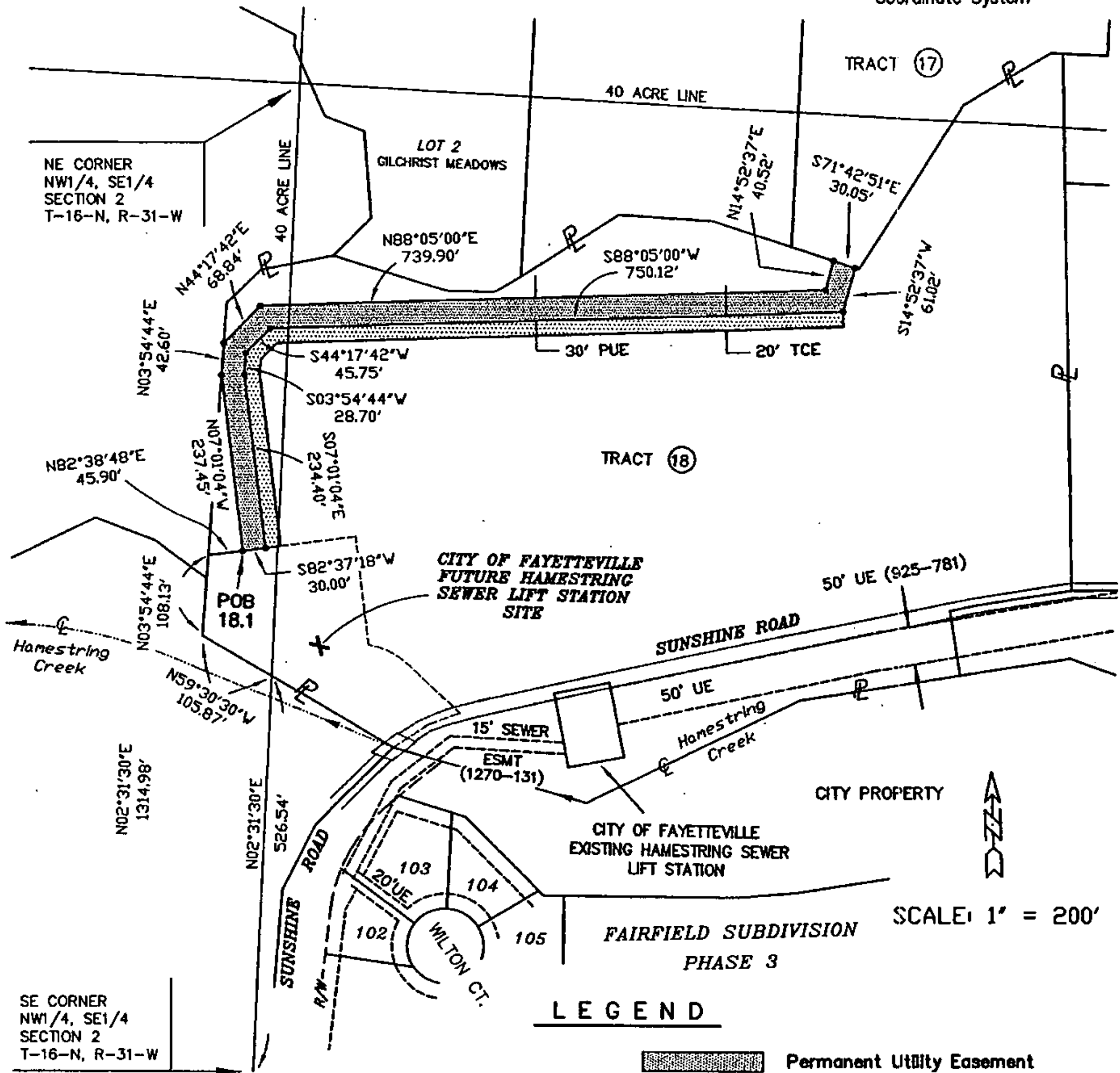
		PROPERTY SURVEY SECTION 2, T-18-N., R-96-E CITY OF FAYETTEVILLE, AR WASHINGTON COUNTY, ARKANSAS	
Little Rock, AR	Fayetteville, AR	DATED BY BOOKS AUG 2004 PAGE 1	SHEET NO. 1
900 W. Main Street	1810 N. College	FIELD NO. 02113	SCALE 1" = 50'



UTILITY EASEMENT PLAT
TRACT MAP NO. 18
EXHIBIT "A"

PUE 18.1 - 33,738 SQ. FT. (0.77 ACRES)
TCE 18A - 20,831 SQ. FT. (0.48 ACRES)

Basis of Bearings:
Based on the City of
Fayetteville GPS
Coordinate System



NE CORNER
NW1/4, SE1/4
SECTION 2
T-16-N, R-31-W

SE CORNER
NW1/4, SE1/4
SECTION 2
T-16-N, R-31-W

LEGEND

- Permanent Utility Easement
- Temporary Construction Easement
- Existing Utility Easement Line
- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

001-11407-006
001-11428-000

001-11407-001
001-11407-005

— Tax Parcel Numbers

2001-143281

— Deed Records

City of
Fayetteville
Water & Sewer Department

Property Owner : CLYDENE SCHARLAU TRUST
Drawn by : McClelland Consulting Engineers
Date: Aug. 2004
Project No. 02133-0305

Scale : 1" = 200'

WL4 - TRACT 18

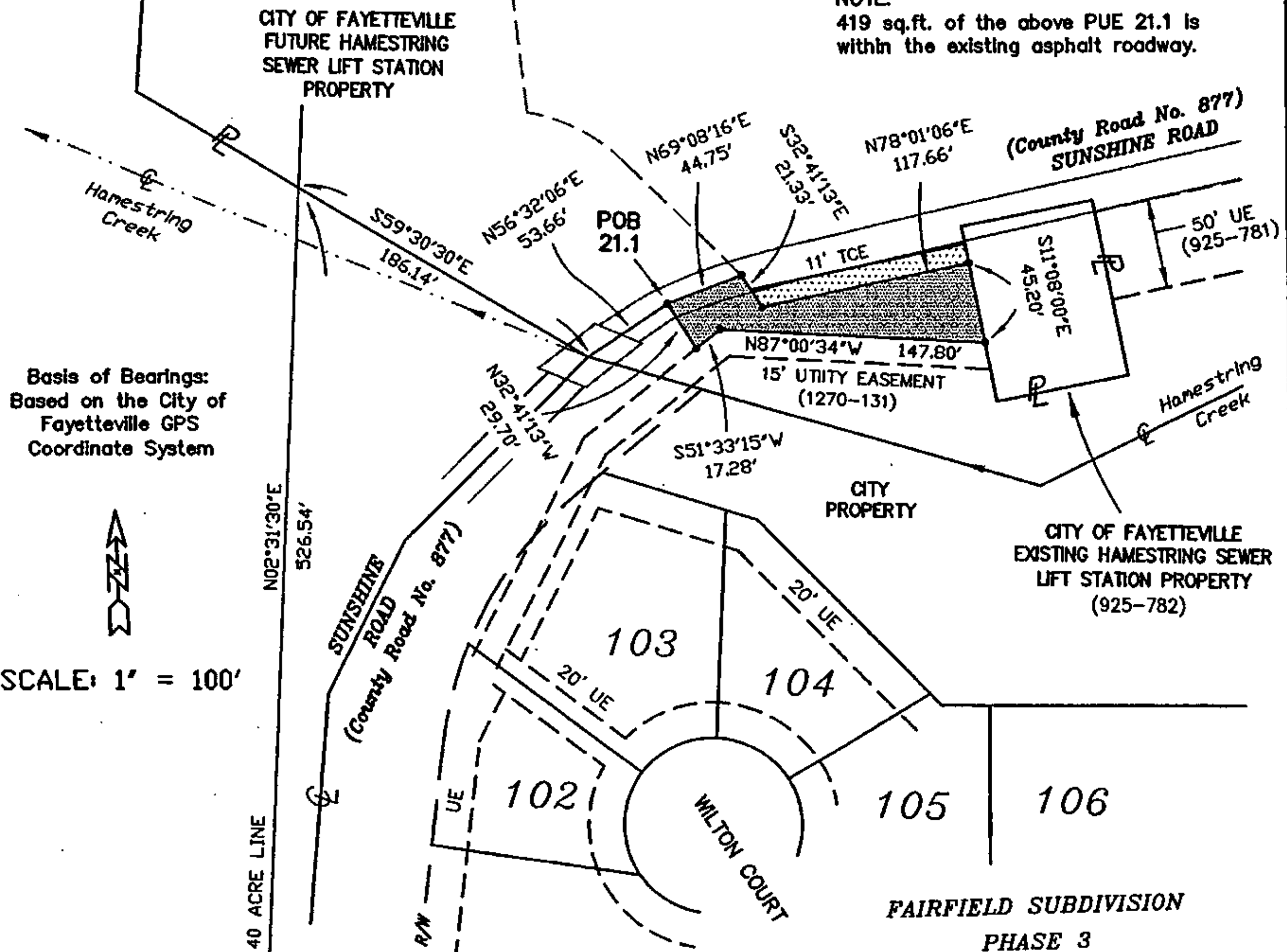
Project Name :
Westside Sewer Interceptors

No.	Revisions	Date

UTILITY EASEMENT PLAT
WL3 TRACT MAP NO. 21
EXHIBIT "A"

PUE 21.1 - 4,725 SQ. FT. (0.11 AC.)
TCE 21A - 1,318 SQ. FT. (0.03 AC.)

NOTE:
419 sq.ft. of the above PUE 21.1 is
within the existing asphalt roadway.



Basis of Bearings:
Based on the City of
Fayetteville GPS
Coordinate System

SCALE: 1" = 100'

SW CORNER
NE1/4, SE1/4
SECTION 2
T-16-N, R-31-W

LEGEND

- — Corners of Permanent Utility Easement
- 001-11407-001 — Tax Parcel Number
- 001-11407-005
- 001-11407-006
- 001-11428-000
- 2001-143281 — Deed Record
- Permanent Utility Easement
- Temporary Construction Easement
- Existing Utility Easement Line
- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

*City of
Fayetteville*
Water & Sewer Department

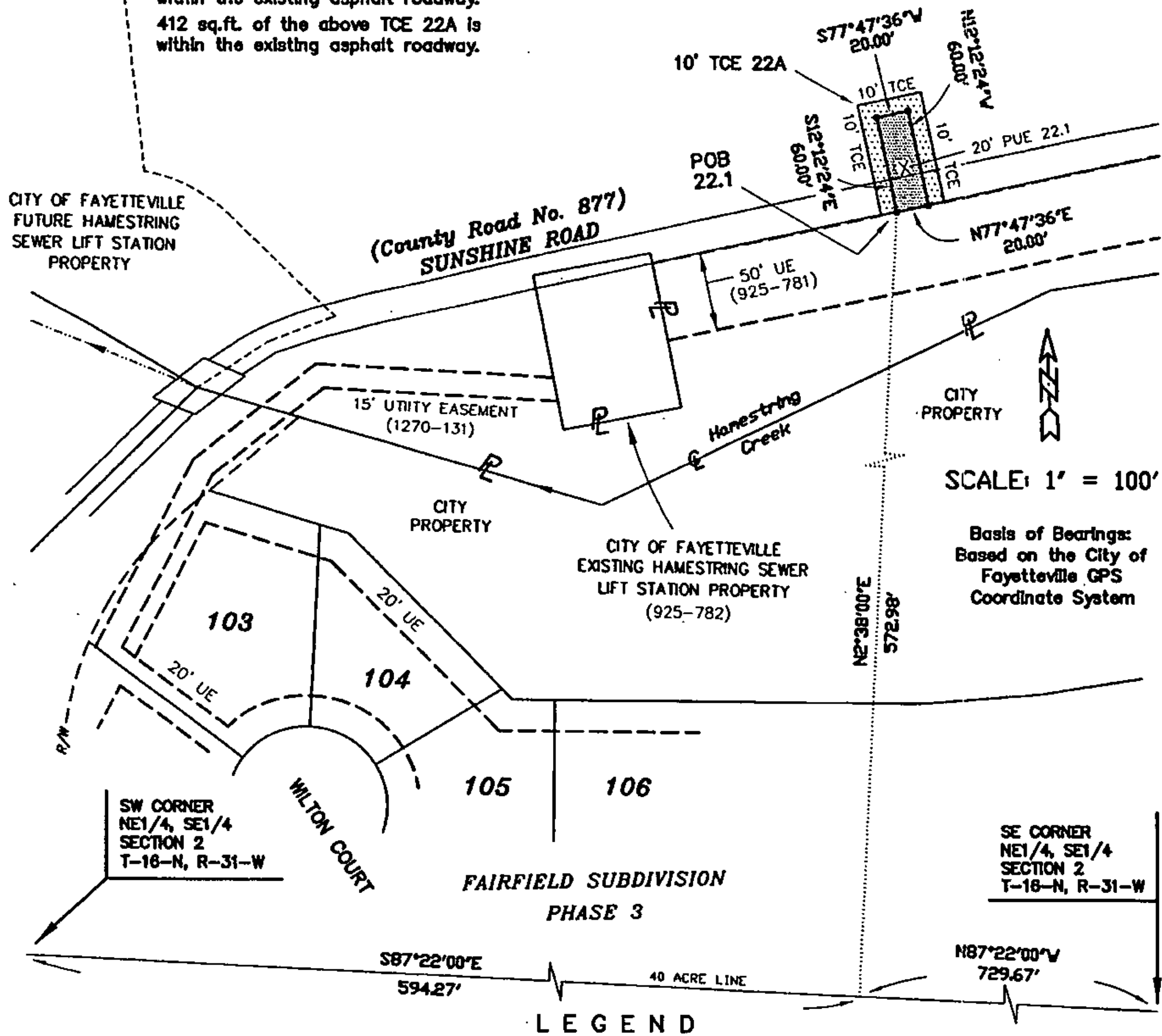
Property Owner : CLYDENE SCHARLAU TRUST
Drawn by : McClelland Consulting Engineers
Date: Sept 2004 Scale : 1" = 100'
Project No. 02133-0305 WL3 - Tract No. 21

Project Name : Westside Sewer Interceptors		
No.	Revisions	Date

PUE 22.1 - 1,200 SQ. FT. (0.03 AC.)
TCE 22A - 1,600 SQ. FT. (0.04 AC.)

UTILITY EASEMENT PLAT
WL3 TRACT MAP NO. 22
EXHIBIT "A"

NOTE:
420 sq.ft. of the above PUE 22.1 is within the existing asphalt roadway.
412 sq.ft. of the above TCE 22A is within the existing asphalt roadway.



LEGEND

- — Corners of Permanent Utility Easement
- 001-11407-001 — Tax Parcel Number
- 001-11407-005
- 001-11407-008
- 001-11428-000
- 2001-143281 — Deed Record
- [Hatched Box] Permanent Utility Easement
- [Dotted Box] Temporary Construction Easement
- Existing Utility Easement Line
- P- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

City of Fayetteville Water & Sewer Department	Property Owner : CLYDENE SCHARLAU TRUST		Project Name : Westside Sewer Interceptors		
	Drawn by : McClelland Consulting Engineers		No.	Revisions	Date
	Date: March 2005	Scale : 1" = 100'			
	Project No. 02133-0305	WL3 - Tract No. 22			

Handed out at Agenda Session
5/31/05

JUNE 7, 2005 City Council
B.I. Amend 97.070
Recreational Activities
at Lake Fayetteville,
Sequoyah and Wilson.

Dry Storage Business		Monthly	Yearly
Allied Self Storage	85 E 15th, Fayetteville	\$25	\$270
Arkansas Self Storage	2325 N Gregg, Fayetteville	\$30	\$360
D&D Storage	1199 Mally Wagon Rd, Fayetteville	\$20	\$240
Key Port Self Storage	1660 N College, Fayetteville	\$22	\$242
Lake Side Self Storage	645 W 265, Springdale	\$25	\$300
Armstrong Storage Center	2084 S Armstrong, Fayetteville	\$25	\$275
All Star Storage	1821 E Hwy 264, Springdale	\$20	\$240

** Note: Fees do not include tax.

Boat Slip Benchmark					
Marina	Cost Per Year	Slip Size	Per Day Fishing/Boating	Annual Fee Boating/Fishing	Cost Per Car Entry
Hickory Creek	\$ 1,075.00	24'	\$ 4.00	\$ 30.00	\$ 3.00
Horseshoe Bend	No Response		\$ 4.00	\$ 30.00	\$ 3.00
Lost Bridge	\$ 830.00	<93"	\$ 4.00	\$ 30.00	\$ 3.00
Lost Bridge	\$ 920.00	>93"	\$ 4.00	\$ 30.00	\$ 3.00
Prairie Creek	\$ 1,250.00	10'X20'	\$ 4.00	\$ 30.00	\$ 3.00
Rocky Branch	\$ 1,512.00	18'	\$ 4.00	\$ 30.00	\$ 3.00
War Eagle	\$ 700.00	18'	\$ 4.00	\$ 30.00	\$ 3.00
War Eagle	\$ 830.00	20'	\$ 4.00	\$ 30.00	\$ 3.00
Lake Fayetteville	\$200 resident/ \$260 non resident	4 - 10' 16'	\$2 Fishing \$1 Senior Fishing \$2 Boating \$1 Senior Boating	\$20 Fishing \$15 Senior Fishing \$20 Boating \$15 Senior Boating	no charge
Lake Sequoyah	\$ 80.00	17'	\$2 Fishing \$1 Senior Fishing \$2 Boating \$1 Senior Boating	\$20 Fishing \$15 Senior Fishing \$20 Boating \$15 Senior Boating	no charge

The eight marina's benchmarked above are governed by the Corp of Engineers.

Page 3 of 4

K-10426861 Budget/Fee Study Information 03/02/03 04 Revenue/Lake Revenues Pr

RESOLUTION

THE FAYETTEVILLE ARKANSAS CHAMBER OF COMMERCE

WHEREAS the City of Fayetteville has been working on a Lighting Ordinance for over two years, and

WHEREAS the Fayetteville Chamber of Commerce, its Past Chairmen's Club and Construction and Developers Committee have monitored the Lighting Ordinance issue with concern and input, and

WHEREAS the Fayetteville Chamber of Commerce and its volunteer committees represent the business community of the City of Fayetteville, Arkansas, and

WHEREAS the Past Chairmen's Club and the Construction and Developers Committee recommends the Fayetteville Chamber of Commerce Board of Directors endorse the latest attached draft of the Lighting Ordinance that will go before the Fayetteville City Council on June 9

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Fayetteville, Arkansas Chamber of Commerce support the latest attached draft of the Lighting Ordinance and that a copy of this resolution be forwarded to the Mayor and City Council of the City of Fayetteville.

Passed and approved this 23rd day of May 2005.

By: Cathy Foraker
Cathy Foraker
Vice Chairman of the Board
Fayetteville Chamber of Commerce

Attest: Bill Ramsey
J. W. "Bill" Ramsey
President/CEO
Fayetteville Chamber of Commerce

CITY COUNCIL AGENDA MEMO

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 17, 2005

Subject: Ordinance amendment to add an additional Planned Zoning District (PZD) option to allow applications to be approved as a Master Development Plan without submittal and approval of a large scale development or preliminary plat.

RECOMMENDATION

The Planning Commission voted 8-0-0 on January 10, 2005 to recommend approval of the revised ordinance to the City Council.

BACKGROUND

Staff has brought forward amendments to the Planned Zoning District ordinance to address several issues that have been discovered since the passage of the ordinance in 2002. The following amendments are addressed in the proposed ordinance:

- Significant reduction in the amount of design and engineering required for submittal (No Large Scale Development and Preliminary Plat required for land use changes)
- Standardization of required information for all PZD's Master Development Plans.
- Increased level of detail in written form as a "Statement of Commitments" to clarify what is presented to the City for approval
- Authorization to phase projects beyond the current expiration of approvals
- Authorization to administratively approve minor modifications

At the ordinance review committee on April 27, 2005, the committee discussed the idea of having PZD's that do not include preliminary plat and large scale development go directly to the City Council.

The committee asked staff to present this idea to the Planning Commission and get their comments. Staff has attached their comments regarding this issue.

The overall goal of this amendment is to meet the informational needs of the citizens, elected and appointed officials, the development community and staff to make informed policy decisions regarding land uses changes within the community without development approval (Preliminary Plat and Large Scale Development).

EXHIBIT A

166.06 Planned Zoning District (PZD)

(A) *Applicability.* To be considered for a planned zoning district, the applicant shall meet all of the following criteria:

- (1) *Location.* Eligible properties include those located within the city limits.
- (2) *Ownership.* Eligible applicants for preliminary plan review shall be a landowner of record or an authorized agent. The approved **PZD master** development plan shall be binding on all subsequent owners of the land until revised or modified.
- (3) *Size.* There shall be no minimum or maximum tract size for a PZD application.

(B) *Application.* The initial application for a PZD shall include the following items:

- (1) *Application.* Complete application form to request a PZD.
- (2) *Copies.* Copies of a **PZD master** development plan in accordance with the submission requirements on the project application form.
- (3) *Fee.* Applicant shall pay all required filing fees for a planned zoning district as set forth in Chapter 159 Fees of the UDC. If a subdivision **or large scale development** is proposed, a fee for **that application** shall also be paid.

(C) *Review and approval procedures.*

- (1) *Pre-application meeting.* Before submitting an application the landowner or authorized agent shall confer with the Planning Division in order to become familiar with the **PZD** process. The staff shall inform the applicant of any perceived problems that may arise. A further purpose of the pre-application meeting is to make sure the applicant has, or will be able to, submit the necessary information for filing the application. The intent of this conference is to provide guidance to the applicant prior to incurring substantial expense in the preparation of plans, surveys and other data required in a **PZD master development plan**.
- (2) *Required City Council Approval.* **PZD Master Development Plans that are processed without a preliminary plat or large scale development shall only require City Council approval.**
- (3) *Required Planning Commission and City Council Approval.* **PZD Master Development Plans that are processed with a preliminary plat or large scale development shall follow the procedures for large scale development and preliminary plat approval through the Planning Commission when processed concurrently as set forth in Chapter 166 of the UDC.**

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 7, 2005**

A meeting of the Fayetteville City Council will be held on June 7, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

- 1. Approval of the Minutes:** Approval of the May 17, 2005 City Council meeting minutes.
- 2. Water and Sewer Division Vehicle Purchase:** A resolution approving the purchase of one (1) cab and chassis with dump body for the Water and Sewer Division from Landers Ford in the amount of \$34,590.00.
- 3. Farmington Waterline Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$170,005.00 for the purchase of easements required for the Farmington Waterline Project; and approving a 10% project contingency in the amount of \$17,001.00.
- 4. Wastewater System Improvement Projects Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$569,845.00 for the purchase of easements required for Wastewater System Improvements Projects (WSIP) WL-1, WL-2, and WL-3; and approving a 10% project contingency in the amount of \$56,985.00.
- 5. Hamestring Pumping Station Offer and Acceptance Contract:** A resolution approving an offer and acceptance contract between the City of Fayetteville and the Clydene Scharlau Trust for the purchase of real property and easements required for the new Hamestring Pumping Station in the amount of \$27,000.00.

6. **RJN Group, Inc., Engineering Services Contract:** A resolution awarding an Engineering Services Contract in the amount of \$420,216.00 with RJN Group, Inc. for sanitary sewer evaluation study and design for Illinois River Basin 15, the areas tributary to the Hamstring Creek Lift Station; and approving a 5% project contingency in the amount of \$21,000.00.

B. UNFINISHED BUSINESS:

1. **Amend § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to amend § 97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) Permits and (C) Fees. *This ordinance was left on the first reading at the May 17, 2005 City Council Meeting.*
2. **RZN 05-1448 (Staggs):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1448 for property located at 2824 S. School Avenue. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare. *This ordinance was left on the second reading at the May 17, 2005 City Council Meeting.*

C. NEW BUSINESS:

1. **ANX 05-1451 (Lane):** An ordinance annexing that property described in Annexation Petition ANX 05-1451 for property located at the end of County Ridge Road, North of Hwy 16 East and West of Deerfield Way containing approximately 24.19 acres.
2. **RZN 05-1452 (Lane):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1452 for approximately 24.19 acres located at the end of County Ridge Road, North of 16 East and West of Deerfield Way from R-A, Residential-Agricultural to RSF-4, Residential Single Family – 4 units per acre.
3. **ANX 05-1470 (Phillips/Baggett):** An ordinance annexing that property described in Annexation Petition ANX 05-1470 for property located at 5150 and 5270 E. Huntsville Road containing approximately 29.59 acres.
4. **RZN 05-1471 (Phillips/Baggett):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1471 for approximately 36.99 acres located at 5150 and 5270 East Huntsville Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4-units per acre.
5. **Planning Commission Appeal (Lane):** A request to appeal the Planning Commissions motion to deny the rezoning request rezoning approximately 6.68 acres of property located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision from C-1, Neighborhood Commercial, to RSF-4, Residential Single Family – 4 units per acre.
6. **Planning Commission Appeal (Wimberly):** A request to appeal the Planning Commission's motion to deny the rezoning request rezoning approximately 0.26 acres of property located at 155 E. Elm Street from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office.

7. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations.
8. **Designating Land for Recreation Purposes:** A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.
9. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts.
10. **Minimum Bid Pricing of 35 Acres of City Land:** A resolution setting the minimum bid price for the sale of 35 acres of the Westside Wastewater Treatment Plant Site, which is south of Persimmon Street and West of Broyles Road, at approximately \$25,000 per acre for total a minimum bid price of \$872,000.

11. INFORMATIONAL:

Council Tour: June 6, 2005 – 4:30 pm



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: May, 16, 2005
Subject: Purchase of F550 Dump truck for Water & Sewer Division

RECOMMENDATION: That City Council approve the purchase of one F-550 with dump body for the use of Water & Sewer Division from Landers Ford of Little Rock for the bid price \$34,589.96.

BACKGROUND: This is a replacement for unit #313, a 1997 Ford F350 dump truck with 80,000 miles. This truck has reached its replacement age but is still serviceable in a less demanding assignment. It will be reassigned to Parks Division to replace unit #312, a 1994 unit that was unserviceable and was sold at the last equipment auction.

Four bid responses were received – see bid tabulation sheet attached. The lowest bid from Landers Ford of Little Rock meets all specifications.

Funds for this purchase are available in 9700.1920.5802.00, Project 02078.1 – Light/Medium Utility Vehicles. This purchase was approved by the equipment committee at the meeting on April 26th, 2005.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) CAB
AND CHASSIS WITH DUMP BODY FOR THE WATER & SEWER
DIVISION FROM LANDERS FORD IN THE AMOUNT OF
\$34,590.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby approves the purchase of one (1) cab and chassis with dump body for the
Water & Sewer Division from Landers Ford in the amount of \$34,590.00.

PASSED and APPROVED this 7th day of June 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

BID TABULATION

BID NO. 05-22

	BIDDER Landers Ford	BIDDER Bale Chevrolet	BIDDER Landers-McClarty Ford	BIDDER Quality Ford
Delivery Days	120	120	120	120
Delivery Specified	120	120	120	NR

ITEM 1 17,500 GVWR Cab & Chassis

QUANTITY	1			
BRAND	Ford	Chevrolet	Ford	Ford
MODEL	F-550	C4500	F-550	F-550
BID AMT.	\$28,614.96	\$30,164.12	\$29,897.06	

ITEM 2 9' Dump Body

QUANTITY	1			
BRAND	Davis	Davis	Mabar	Hilbilt
MODEL	TA 3-9	TA 3-9	DB091809	
BID AMT.	\$5,975.00	\$5,975.00	\$9,991.25	
TOTAL BID	\$34,589.96	\$36,139.12	\$39,888.31	\$36,218.00



Water and Sewer Division Vehicle Purchase
A. 2
Page 4 of 6

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Bobby Ferrell
Don Marr
Lioneld Jordan
Billy Sweetser

FROM: David Bragg, Fleet Operations Supt

DATE: April 20, 2005

SUBJECT: Award of Equipment Bid

Bid #05-22 was opened on April 15, 2005 for one cab and chassis with dump body for use by Water and Sewer Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Landers Ford of Little Rock meets all specifications.

I recommend acceptance of the bid from Landers Ford in the amount of \$34,589.96.

This is a **replacement** for unit # 313, a 1997 Ford F-350 dump truck with 80,000 miles. This truck has reached its replacement age but is still serviceable in a less demanding assignment. It will be reassigned to Parks Division to replace unit #312, a 1994 unit that was unserviceable and was sold at the last equipment auction.

Funds for this purchase are available in 2005 Fleet Replacement Project Account 02078 – Light / Medium Utility Vehicles

Cc:
Gary Dumas

APPROVED
4/26
WRD

City Of Fayetteville (Not a Purchase Order)				Requisition No.		Date: 5/16/2005			
Vendor # 7582		Vendor Name: Lander's Ford		P.O Number		Expected Delivery Date:			
Address:		Fob Point:		Mail Yes: No: XX_					
City:		State:		Taxable Yes: XX No:					
Requester: BARBARA OLSEN <i>BO.</i>		Ship to code: 050		Divison Head Approval: <i>[Signature]</i>		Quotes Attached Yes: No:			
		Requester's Employee # 1940		Extension: 495					
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Ford F550 cab and chassis with	1	EA	\$34,589.96	\$34,589.96	9700.1920.5802.00	02078.1		
2	Davis TA 3-9 Dump Body, 9' per bld		EA		\$0.00				
3	specs. To be unit #353, Fixed		EA		\$0.00				
4	Asset #700353		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:					Subtotal: 34,589.96				
					Tax: 3,113.10				
					Total: 37,703.06				
Approvals:				Purchasing Manager: _____					
Mayor: _____				Department Director: _____					
Finance & Internal Services Director: _____				Budget Manager: _____					
Dispatch Manager: _____				Utilities Manager: _____					
				IT Manager: _____					

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 2
Water and Sewer Division Vehicle Purchase
Page 6 of 6

7-Jun-05
City Council Meeting Date

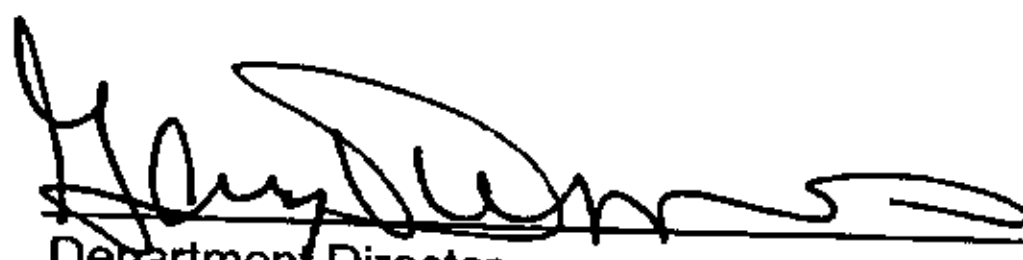
David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

Action Required: Approval of purchase of one cab and chassis with dump body for use by Water & Sewer Division from Landers Ford for the lowest bid price of \$34,589.96.

\$34,590.00 Cost of this request	\$ 634,258.00 Category/Project Budget	Light/Medium Utility Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 482,546.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02078.1 Project Number	\$ 151,712.00 Remaining Balance	Shop Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director 5-18-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 5/18/05
Date

Received in City Clerk's Office


Mayor 5/19/05
Date

Received in Mayor's Office
ENTERED 5/19/05

Comments:

Fayetteville

City Council Meeting of May 3, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: May 20, 2005

Subject: Approval of a lump sum plus 10% contingency to purchase easements based on completed appraisals for the Farmington Waterline Project.

RECOMMENDATION : Staff recommends approval of purchase of the easements for the Farmington Waterline Project. This recommendation was preceded by a thorough review of alternate routing and/or alignment of the subject wastewater conveyances.

BACKGROUND: This waterline relocation work is being done due to widening of Highway 62 by the Arkansas Department of Transportation.

DISCUSSION:

BUDGET IMPACT: Payment for easements will be from the Water & Sewer Fund. The \$187,006.00 requested for these services is 18% of the \$1,019,616.00 budget allocated for the Farmington Waterline Relocation Project.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LUMP SUM ALLOCATION IN THE AMOUNT OF \$170,005.00 FOR THE PURCHASE OF EASEMENTS REQUIRED FOR THE FARMINGTON WATERLINE PROJECT; AND APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$17,001.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a lump sum allocation in the amount of \$170,005.00 for the purchase of easements required for the Farmington Waterline Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a 10% project contingency in the amount of \$17,001.00.

PASSED and APPROVED this 7th day of June, 2005.

APPROVED

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FARMINGTON WATERLINE
RIGHT-OF-WAY & EASEMENT COSTS

DATE: 04-20-2005

TRACT NO.	PROPERTY OWNER	CALCULATED TOTAL	ROW (FT)	PERM. ESMT (FT)	TEMP. ESMT (FT)	PROPOSED RATES	ROW	PE	TCE	DAMAGES	TOTAL	DATE MAILED	REMINDER LETTER	NOTIFICATION LETTER	DATE ACQUIRED
1	Daniel			100	500	\$1.30/ft		\$130.00	\$65.00		\$195.00				
2	City of Farmington			198	248	\$2.50/ft		\$500.00	\$85.00		\$585.00				
3	Ingo & Ong			740	530	\$2.50/ft		\$1,850.00	\$135.00		\$1,985.00				
4	Nail			6,408	3,780	\$4.90/ft		\$31,405.00	\$1,680.00		\$33,085.00				
5	Phillips			836	618	\$5.00/ft		\$4,180.00	\$310.00		\$4,490.00				
6	Blissell True			3,006	1,496	\$5.00/ft		\$15,030.00	\$750.00		\$15,780.00				
7	AHTD			122	61	-					\$0.00				
8	Bradley Trust			2,571	2,681	\$4.90/ft		\$12,600.00	\$1,305.00		\$13,905.00				
9	Curtisner				1,443	\$4.00/ft			\$580.00		\$580.00				
10	CVM, Inc.				301	\$4.90/ft			\$150.00		\$150.00				
11	Gibson				757	\$4.00/ft			\$305.00		\$305.00				
12	Gibson				1,481	\$3.90/ft			\$580.00		\$580.00				
13	Gibson				3,383	\$4.90/ft			\$1,660.00		\$1,660.00				
14	Chick Family Trust No. 1			3,125	1,919	\$3.75/ft		\$11,720.00	\$720.00		\$12,440.00				
15	Peoples			1,274	1,004	\$3.50/ft		\$4,460.00	\$355.00		\$4,815.00				
16	Siemore			1,463	784	\$4.00/ft		\$5,855.00	\$315.00		\$6,170.00				
17	Frewett			1,801	801	\$3.00/ft		\$4,805.00	\$240.00		\$5,045.00				
18	Bailey				300	\$4.00/ft			\$120.00		\$120.00				
19	Acord			1,044	525	\$4.00/ft		\$4,180.00	\$210.00		\$4,390.00				
20	Eads			1,759	1,000	\$3.00/ft		\$5,280.00	\$300.00		\$5,580.00				
21	Event				1,284	\$4.75/ft			\$615.00		\$615.00				
22	Long				1,384	\$4.75/ft			\$650.00		\$650.00				
23	Carzone Carwashes, LLC				1,336	\$4.75/ft			\$635.00		\$635.00				
24	Phillips				883	\$4.75/ft			\$420.00		\$420.00				
25	Stringfellow				1,076	\$4.80/ft			\$510.00		\$510.00				
26	Southwinds Real Estate Inc.				1,130	\$4.75/ft			\$540.00		\$540.00				
27	Moore				1,319	\$4.80/ft			\$630.00		\$630.00				
28	Daugherty Trust				1,283	\$4.75/ft			\$610.00		\$610.00				
29	Farmington Baptist Church				1,309	\$5.10/ft			\$670.00		\$670.00				
30	Farmington Church of Christ				2,494	\$3.75/ft			\$935.00		\$935.00				
31	Chick Family Trust No. 1			710	1,480	\$3.90/ft		\$2,770.00	\$560.00		\$3,330.00				
32	Brewer			1,006	504	\$5.00/ft		\$5,040.00	\$255.00		\$5,295.00				
33	Littfield Investment Co.			3,539	3,208	\$4.90/ft		\$17,345.00	\$1,570.00		\$18,915.00				
34	Westphal Properties Inc.				1,911	\$3.75/ft			\$720.00		\$720.00				
35	Thompson				1,232	\$3.90/ft			\$480.00		\$480.00				
36	Commercial Properties, Inc.			3,402	2,864	\$2.50/ft		\$17,570.00	\$720.00		\$18,290.00				
37	Garner			9,000	3,600	\$0.50/ft		\$4,500.00	\$180.00		\$4,680.00				
	TOTALS		0	41,908	51,888		\$0.00	\$149,220.00	\$20,785.00	\$0.00	\$170,005.00				

Fee Simple Value: 100% of appraised value.
Perm. Esmt. Value: 100% of full fee simple value.
Temp. Esmt. Value: 10% of full fee simple value



WATER AND WASTEWATER

VOTE TAB

WATER & SEWER COMMITTEE
MAY 9, 2005

FARMINGTON WATERLINE EASEMENT ACQUISITION IN THE AMOUNT OF
\$187,006.00

	Kyle Cook	Lioneld Jordan	Bobby Ferrell	Robert Reynolds
FOR	✓	✓	✓	N/A
AGAINST				

CERTIFIED:

Kyle Cook

Lioneld Jordan

Bobby Ferrell

Robert Reynolds

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Jun-05
City Council Meeting Date

Bob Davis Water & Wastewater Director
Submitted By Division Department

Action Required:

Approval of a lump sum plus 10% contingency to purchase easements based on completed appraisals for the Farmington Waterline.

\$187,006.00	1,019,616	Hwy. 62 Waterline Relocation- Farmington
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5600.5810.00	33,625.81	Water/Sewer Imp.
Account Number	Funds Used to Date	Program / Project Category Name
4034	\$ 985,990.19	Water/Sewer Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

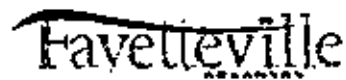
Bob Davis 05-20-05 Previous Ordinance or Resolution # N/A
Department Director Date Original Contract Date: N/A

D. D. f. White 05/23/05 Original Contract Number: N/A
City Attorney

Art Davis 5/25/05 Received in City Clerk's Office ENTERED 5/20/05
Finance and Internal Service Director Date

Alan Coody 5/26/05 Received in Mayor's Office ENTERED Jm 5/23/05
Mayor Date

Comments:

Fayetteville

City Council Meeting of May 3, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: May 20, 2005

Subject: Approval of a lump sum plus 10% contingency to purchase easements based on completed appraisals for Wastewater system Improvements Project WL-1 (Gregg to Old Wire Road to Gregg Lift Station), WL-2 (North Street to Van Asche Pond Drive), and WL-3 (Porter Road to New Hamestring Lift Station).

RECOMMENDATION : Staff recommends approval of purchase of the easements for WL-1, WL-2, WL-3 This recommendation was preceded by a thorough review of alternate routing and/or alignment of the subject wastewater conveyances.

BACKGROUND: As part of the Wastewater Systems Improvement Project (WSIP) the City of Fayetteville has undertaken to build or replace wastewater conveyances in the Illinois River drainage basin to reduce, I/I, allow for additional collection system storage, and upgrade wastewater collection system capacity. The easements, consisting of both temporary construction easements (TCE's) and permanent easements (PC's), required are those properties where the wastewater lines will be placed or properties required for access into the alignment areas where the wastewater lines will be placed.

WL-1-The project and associated easements provide for the construction of 16,282 linear feet of gravity sewer main, 8-inch through 36-inch diameter, mostly 24-inch through 30-inch, 60 new manholes, removal and/or abandonment of 34 manholes, 632 linear feet of 48-inch bore and case, 503 linear feet of 42 inch bore and case, 160 linear feet of 36-inch bore and case, creek crossings and related work, along Mud Creek in the northeast part of Fayetteville, AR.

WL-2-The project and associated easements cover construction of the Gregg Avenue Interceptor. The scope includes construction of approximately 1,182 feet of 48-inch gravity sewer main, 6,001 feet of 33-inch gravity sewer main, 5,824 feet of 27 inch-gravity sewer main, 3,196 feet of 24-inch gravity sewer main, 253 feet of 8-inch gravity sewer main, approximately 70 manholes, removal or abandonment of approximately 3 existing manholes, a bored highway crossing, creek crossings and related.

WL-3-The project and associated easements cover the Hamestring Interceptor. The scope includes construction of approximately 14,700 feet of gravity sewer main, mostly 24-inches in diameter, approximately 54 new manholes, removal or abandonment of approximately 42 existing manholes, a bored highway crossing, creek crossings and related work.

Fayetteville

City Council Meeting of May 3, 2005

DISCUSSION: WL-1 and WL-3 will be bid out this year to aid in upgrading collection system capacity by reducing I/I and adding storage due to larger diameter lines.

BUDGET IMPACT: Payment for easements will be from the 3/4 -cent sales tax bond election held on November 6, 2001 for the Wastewater System Improvements Project. Funding through the Arkansas Soil and Water Conservation Commission will not be used to fund this expense. The \$626,830.00 requested for these services is 0.005% of the \$125,000,000.00 budget allocated for the Wastewater System Improvements Project.

RESOLUTION NO. _____

A RESOLUTION APPROVING A LUMP SUM ALLOCATION IN THE AMOUNT OF \$569,845.00 FOR THE PURCHASE OF EASEMENTS REQUIRED FOR WASTEWATER SYSTEM IMPROVEMENTS PROJECTS (WSIP) WL-1, WL-2, AND WL-3; AND APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$56,985.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves a lump sum allocation in the amount of \$569,845.00 for the purchase of easements required for Wastewater System Improvements Projects (WSIP) WL-1, WL-2, AND WL-3.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a 10% project contingency in the amount of \$56,985.00.

PASSED and APPROVED this 7th day of June, 2005.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

DATE: 05-02-2005

Fee Simple Value: 100% of appraised value.
Perm. Esmt. Value: 100% of full fee simple value.
Temp. Esmt. Value: 10% of full fee simple value.

WWTP--West Line 2 (WL2)
RIGHT-OF-WAY & EASEMENT COSTS

DATE: 05-02-2005

WL2 TRACT NO.	PROPERTY OWNER	Received from	PERM. ESMT (FT²)	TEMP ESMT (FT²)	PROPOSED RATES	PE	TCE	DAMAGES	TOTAL	DATE MAILED	REMINDER LETTER	NOTIFICATION LETTER	DATE ACQUIRED
1	Paris R. Green Trust	7/9/2004	40,953	33,128	\$80,000/ac	\$75,200.00	\$6,100.00		\$85,000.00	05/02/05			
2	1155 Partners, LP	5/24/2004	3,143	9,243	\$80,000/ac x 50%	\$2,850.00	\$850.00						
3	Unknown Owner	10/1/2004	86,838	77,636	\$80,000/ac	\$159,200.00	\$14,300.00		\$173,500.00	05/02/05			05/03/05
4	Dockery Family Trust	5/24/2004	14,866	15,380	--				\$0.00	CONSIDERED ROW (NO MAN'S LAND)			
5	Marvin B. Osburn	5/24/2004	8,150	9,780	\$75,000/ac x 50%	\$7,150.00	\$850.00		\$1,325.00	05/02/05			
6	Kenneth & Cynthia Knott	5/24/2004	5,335	6,402	\$75,000/ac x 50%	\$4,600.00	\$550.00		\$8,000.00	05/02/05			
7	Quality Life Associates	5/24/2004	8,224	9,954	\$75,000/ac x 50%	\$7,080.00	\$870.00		\$5,150.00	05/02/05			
8	University of Arkansas	5/24/2004	67,274	80,650	\$80,000/ac x 50%	\$61,600.00	\$7,400.00		\$7,950.00	05/02/05			
9	Chestnut II, Ltd. Part.	6/1/2004	20,576	24,417	\$50,000/ac x 50%	\$11,750.00	\$1,400.00		\$69,000.00	05/02/05			
10	John D. Lindsey, LLC	6/1/2004	15,173	13,003	\$50,000/ac x 50%	\$8,750.00	\$750.00		\$13,150.00	05/02/05			
11	City of Fayetteville	6/1/2004	2,966	2,402	--				\$9,500.00	05/02/05			
12	Rich King/Sharman Sturchio	6/1/2004	1,269	1,903	\$2,500/sf	\$3,175.00	\$475.00		\$0.00	05/02/05			
13	John & Lynn McLarty	6/1/2004	1,146	1,288	\$80,000/ac x 50%	\$2,875.00	\$325.00		\$3,650.00	05/02/05			
14	Jordan Rentals, Inc.	6/1/2004	13,715	16,441	\$80,000/ac x 50%	\$12,800.00	\$1,500.00		\$3,200.00	05/02/05			
15	Trudy J. Jeske Trust	6/1/2004	352	680	\$2,750/sf x 50%	\$500.00	\$100.00		\$14,300.00	05/02/05			
16	Sweetser Family Ltd. Part.	6/1/2004	7,026	9,941	\$80,000/ac x 50%	\$6,430.00	\$920.00		\$600.00	05/02/05			
17	Windy Hill, LLC	6/1/2004	2,385	303	\$4,000/sf x 50%	\$4,770.00	\$80.00		\$7,350.00	05/02/05			
18	Chris & Kerri Elder	6/1/2004	1,387		\$4,000/sf x 50%	\$2,800.00			\$4,850.00	05/02/05			
19	Chris & Kerri Elder	6/1/2004	1,381		\$4,000/sf x 50%	\$2,800.00			\$2,800.00	05/02/05			
20	Langaroudi & Ahmadi	6/1/2004	1,386		\$4,000/sf x 50%	\$2,800.00			\$2,800.00	05/02/05			
21	Elder Properties, LLC	6/1/2004	2,188		\$4,000/sf x 50%	\$4,400.00			\$4,400.00	05/02/05			
22	Tune Construction Co.	6/22/2004	11,859	8,870	\$4,000/sf x 50%	\$23,700.00	\$1,800.00		\$25,500.00	05/02/05			
23	Kirby & Donna Johnson	6/22/2004	502	2,451	\$4,000/sf x 50%	\$1,000.00	\$500.00		\$1,500.00	05/02/05			
24	Lev. & North St. Ch. of Christ	6/22/2004	5,625	5,018	\$4,000/sf x 50%	\$11,250.00	\$1,000.00		\$12,250.00	05/02/05			
25	Lev. & North St. Ch. of Christ	6/22/2004	3,953	3,954	\$4,000/sf x 50%	\$7,900.00	\$800.00		\$8,700.00	05/02/05			
26	Lev. & North St. Ch. of Christ	6/22/2004	3,004	3,500	\$4,000/sf x 50%	\$6,050.00	\$700.00		\$6,750.00	05/02/05			
27	Thomas & Carla Pevehouse	6/22/2004	3,504	3,783	\$4,000/sf x 50%	\$7,025.00	\$775.00		\$7,800.00	05/02/05			
	TOTALS		334,180	340,127		\$438,455.00	\$43,370.00	\$0.00	\$481,825.00	05/02/05			

Fee Simple Value: 100% of appraised value.
Perm. Esmt. Value: 100% of full fee simple value.
Temp. Esmt. Value: 10% of full fee simple value.

WWTP—West Line 3 (WL3)

DATE: 05-02-2005

TRACT NO.	PROPERTY OWNER	Received from RJM/McClelland	PERM. ESMT (Ft)	TEMPE ESMT (Ft)	PROPOSED RATES	EXTENSIONS PE TCE DAMAGES TOTAL	DATE MAILED	REMINDER LETTER	NOTIFICATION LETTER	DATE ACQUIRED
1	Don & Donna Hendricks	5/24/2004		11,650	\$0.30/sf		\$350.00			05/02/05
2	James Wayne Barnes	5/24/2004			\$25,000/ac x 50%	\$100.00	\$100.00			05/02/05
3	Arkansas Oaks Inc.	5/24/2004		7,372	\$25,000/ac x 50%	\$215.00	\$215.00			05/02/05
4	Berneda C. Kieg Trust	6/1/2004	79	27,847	\$25,000/ac x 50%	\$25.00	\$800.00			05/02/05
5	Harry Goforth/Carol Alexander	6/1/2004	18,215	18,797	\$25,000/ac x 50%	\$5,250.00	\$5,800.00			05/02/05
6	James & Judith Hazen	6/1/2004	11,564	76,261	\$30,000/ac x 50%	\$4,050.00	\$6,700.00			05/02/05
7	Dockery Family Trust	6/1/2004		8,808	\$30,000/ac x 50%		\$350.00			05/02/05
8	Randy & Tris Middleton	6/1/2004		9,356	\$30,000/ac x 50%		\$350.00			05/02/05
9	Troy Mullins Trust	6/1/2004		3,593	\$30,000/ac x 50%		\$150.00			05/02/05
10	City of Fayetteville	6/11/2004	28,696	43,288			\$0.00			05/02/05
11	Fadi Bayani Trust	6/11/2004	2,246	8,070	\$75,000/ac x 50%	\$1,875.00	\$2,600.00			05/02/05
12	John & Reba Lamp	6/11/2004	2,095	6,280	\$30,000/ac x 50%	\$725.00	\$850.00			05/02/05
13	J. Michael & Sherna Cockrill	6/11/2004	703	14,905	\$30,000/ac x 50%	\$300.00	\$850.00			05/02/05
14	Melton & Bette Hall	6/22/2004	7,273	8,641	\$35,000/ac x 50%	\$5,950.00	\$6,700.00			05/02/05
15	Comersione Apts. Ltd. Part.	6/22/2004	3,591	8,278	\$50,000/ac x 50%	\$2,085.00	\$2,550.00			05/02/05
16	Joseph, Wendel, & Vicki Msall	6/22/2004	472		\$1,750/sf x 50%	\$450.00	\$450.00			05/02/05
17	Cynthia Grosse	9/22/2004	890		\$1,750/sf x 50%	\$800.00	\$800.00			05/02/05
18	Comersione Apts. Phase II	7/9/2004	14,905	19,293	\$60,000/ac x 50%	\$8,500.00	\$9,600.00			05/02/05
19	Niblock Investments	7/9/2004	8,176	5,831	\$40,000/ac x 50%	\$3,800.00	\$4,100.00			05/02/05
20	Theresa Bechaud	7/9/2004	3,360	1,862	\$2,000/sf x 50%	\$3,360.00	\$3,660.00			05/02/05
21	Scharlau Trust	9/2/2004	4,725	1,318		PART OF HAMESTRING LIFT STATION NEGOTIATION (V/L6)				
	TOTALS		108,980	285,371		\$37,150.00	\$9,840.00	\$0.00	\$46,990.00	

Fee Simple Value: 100% of appraised value.
Perm. Esmt. Value: 100% of full fee simple value.
Temp. Esmt. Value: 10% of full fee simple value.



WATER AND WASTEWATER

VOTE TAB

WATER & SEWER COMMITTEE
MAY 9, 2005

WL-1, WL-2, WL-3 EASEMENT ACQUISITION IN THE AMOUNT OF \$626,830.00

	Kyle Cook	Lioneld Jordan	Bobby Ferrell	Robert Reynolds
FOR	✓	✓	✓	n/a
AGAINST				

CERTIFIED:

Kyle Cook

Lioneld Jordan

Bobby Ferrell

Robert Reynolds

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Jun-05
City Council Meeting Date

<u>Bob Davis</u>	<u>Water & Wastewater</u>	<u>Director</u>
Submitted By	Division	Department

Action Required:

Approval of a lump sum plus 10% contingency to purchase easements based on completed appraisals for Wastewater System Improvements Projects WL-1 Line from Gregg to Old Wire Road to Gregg Lift Station, WL-2 (North Street to Van Asche Pond Drive), WL-3 (Porter Road to New Hamestring Pumping Station).

\$626,830.00	113011587	Wastewater System Improvements Project/Right of Way Acquisition
Cost of this request	Category/Project Budget	Program Category / Project Name
4480.9480.5810.00	16754610.29	Wastewater System Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02133.0305	\$ 96,256,976.71	Wastewater System Improvements
Project Number	Remaining Balance	Fund Name
		Project Project Fund

Budgeted Item ☒ Budget Adjustment Attached ☐

<u>Bob Davis</u>	<u>05-20-05</u>	Previous Ordinance or Resolution #	<u>N/A</u>
Department Director	Date	Original Contract Date:	<u>N/A</u>

<u>D. J. F. Whit</u>	<u>5/23/05</u>	Original Contract Number:	<u>N/A</u>
City Attorney			

<u>Steve Davis</u>	<u>5-25-05</u>		
Finance and Internal Service Director	Date		

<u>Ron Goady</u>	<u>5/26/05</u>		
Mayor	Date		

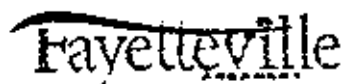
Received in City Clerk's Office

ENTERED
5/25/05

Received in Mayor's Office

ENTERED
5/23/05

Comments:

Fayetteville

City Council Meeting of May 3, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: May 20, 2005

Subject: Approval of a lump sum of \$27,000 to purchase easements based on completed appraisals for Wastewater system Improvements Project WL-6 (Hamestring Lift Station).

RECOMMENDATION : Staff recommends approval of purchase of the easements for Project WL-6 consisting of construction of the new Hamestring Lift Station.

BACKGROUND: As part of the Wastewater System Improvements Project (WSIP) the City of Fayetteville has undertaken to build a new Hamestring Lift Station (northwest) across the road from the existing Hamestring Lift station at West Jess Anderson Road and Sunshine Road Route 877. The wet well/dry well liftstation. Upon completion of the new lift station, the old lift station on the south side of Sunshine Road will be leveled, graded, seeded and strawed, returning the site to a grassy area.

DISCUSSION: WL-6 will be bid out toward the middle of 2006. This is a "county" property and 3 concessions were made in the offer to the Owner. They include:

1. A water tap to the barn be made off of an existing line.
2. An 8" sewer line will be extended off of the 24" line south of Sunshine Road. A sewer tap will be made to the new house site off of the 8" line.
3. A sewer line off of the aforementioned 8" line will be made to the barn site.

BUDGET IMPACT: Payment for easements will be from the 3/4 -cent sales tax bond election held on November 6, 2001 for the Wastewater System Improvements Project. Funding through the Arkansas Soil and Water Conservation Commission will not be used to fund this expense. The \$27,000.00 requested for these services is 0.0002% of the \$125,000,000.00 budget allocated for the Wastewater System Improvements Project.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND THE CLYDENE SCHARLAU TRUST FOR THE PURCHASE OF REAL PROPERTY AND EASEMENTS REQUIRED FOR THE NEW HAMESTRING PUMPING STATION IN THE AMOUNT OF \$27,000.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Offer and Acceptance contract between the City of Fayetteville and the Clydene Scharlau Trust for the purchase of real property and easements required for the New Hamestring Pumping Station in the amount of \$27,000.00. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and APPROVED this 7th day of June, 2005

APPROVED

By:

DAN COODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

OFFER AND ACCEPTANCE CONTRACT

1. **The City of Fayetteville, Arkansas**, a municipal corporation, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTIONS
2. **Purchase Price:** Subject to the following conditions, the City of Fayetteville shall pay for the property at closing, the total and cash payment of **\$27,000.00**.
3. **Contingent Earnest Money Deposit:** The City of Fayetteville will forward a check for **\$2,700.00** to **Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997**, as earnest money, upon acceptance of this offer, which shall also apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the City of Fayetteville by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997. If title requirements are not fulfilled or Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the City of Fayetteville. If the City of Fayetteville fails to fulfill their obligations under this contract or, after all conditions have been met, the City of Fayetteville fails to close this transaction, the earnest money may, at the option of Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, become liquidated damages to Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
4. Conveyance will be made to the City of Fayetteville by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
5. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville and Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall share equally in the cost of the title insurance.
6. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, agrees to allow the City of Fayetteville, if the City of Fayetteville so desires, at City of Fayetteville's expense, to survey the property. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within sixty (60) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to the City of Fayetteville on the date of closing.
10. Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, hereby grants permission for the City of Fayetteville or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
13. Water tap to barn will be made off of existing line within thirty (30) days after approval of this Offer and Acceptance Contract by Fayetteville City Council. When a new waterline is extended to lift station site, water taps for house site and barn site (both fronting on Sunshine Road) will be made off of new line.
14. An 8" sewer line will be extended off of the 24" line south of Sunshine Road. A sewer tap will be made to the new house site (immediately north of old house site) off of the 8" line. Also, a sewer tap off of the 8" line will be made to barn site.
15. Screening around the lift station site will consist of a fence and two rows of evergreens (one row fast growing pines and one row slower growing evergreens).

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 5

16. Site of old lift station on south side of Sunshine Road will be leveled, graded, seeded and strawed, returning the site to a grassy area.
17. This agreement shall be governed by the laws of the State of Arkansas.
18. This agreement, when executed by both the City of Fayetteville and Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
19. This contract expires, if not accepted by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997, on or before the 16th day of May, 2005.
20. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997.
21. **NOTICE:** THE CITY OF FAYETTEVILLE ASSERTS AND CHARLES E. SCHARLAU, TRUSTEE OF THE CLYDENE SCHARLAU TRUST DATED DECEMBER 22, 1997, HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO CITY OF FAYETTEVILLE OF THE \$2,700.00 EARNEST MONEY DEPOSIT.

Clydene Scharlau Trust dated December 22, 1997

Charles E. Scharlau, Trustee

Date: _____

Agent or Witness

Date: _____

**City of Fayetteville, Arkansas,
A municipal corporation**

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

EXHIBIT "A"
PROPERTY DESCRIPTIONS

Lift Station Site:

A part of the North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, being more particularly described as beginning at a point North 02° 31' 30" East 526.54 feet of the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 59° 30' 30" West 105.87 feet to an iron pin at a fence corner; thence along an existing fence line North 03° 54' 44" East 108.13 feet to an iron pin at a fence corner; thence along an existing fence line North 82° 38' 48" East 45.90 feet to an iron pin; thence continuing along said fence line North 82° 37' 18" East 149.83 feet to an iron pin; thence South 06° 42' 15" East 145.72 feet to an iron pin; thence Southeasterly along a 100 foot radius non-tangent curve to the right a distance of 60.30 feet, said curve having a chord bearing and distance of South 63° 19' 13" East 59.40 feet; thence South 46° 02' 30" East 92.55 feet to a nail and cap in the centerline of Sunshine Road; thence along said centerline South 69° 08' 16" West 44.75 feet; thence continuing along said centerline South 56° 32' 06" West 53.66 feet to a nail and cap in the Hamstring Creek Bridge; thence North 59° 30' 30" West 186.14 feet to the Point of Beginning, containing 1.11 acres, more or less, Washington County, Arkansas. Subject to any easements and/or rights of way of record.

Permanent Easement (north):

A thirty (30) foot permanent easement of equal and uniform width located in a part of the North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 02° 31' 30" East 526.54 feet to a point on the South line of the above referenced property, thence along said South property line North 59° 30' 30" West 105.87 feet to the Southwest corner of the above referenced property, thence along the West property line North 03° 54' 44" East 108.13 feet, thence leaving said West property line North 82° 38' 48" East 45.90 feet to the Point of Beginning; thence North 07° 01' 04" West 237.45 feet back to a point on the West property line; thence along said West property line North 03° 54' 44" East 42.60 feet; thence North 44° 17' 42" East 68.84 feet; thence North 88° 05' 00" East 739.90 feet; thence North 14° 52' 37" East 40.52 feet to a point on the North line of the above referenced property; thence along said North property line South 71° 42' 51" East 30.05 feet; thence South 14° 52' 37" West 61.02 feet; thence South 88° 05' 00" West 750.12 feet; thence South 44° 17' 42" West 45.75 feet; thence South 03° 54' 44" West 28.70 feet; thence South 07° 01' 04" East 234.40 feet; thence South 82° 37' 18" West 30.00 feet to the Point of Beginning, containing 33,738 square feet (0.77 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction Easement (north):

A twenty (20) foot temporary construction and grading easement of equal and uniform width is located along the East and South sides of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 20,831 square feet (0.48 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Permanent Easement (south):

A permanent easement of variable width located in a part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence North 02° 31' 30" East 526.54 feet to a point on the South line of the above referenced property, thence along said South property line South 59° 30' 30" East 186.14 feet to the centerline of County Road No. 877 (Sunshine Road), thence along said centerline North 56° 32' 06" East 53.66 feet to the Point of Beginning; thence continuing along the centerline of County Road No. 877 (Sunshine Road) North 69° 08' 16" East 44.75 feet; thence South 32° 41' 13" East 21.33 feet; thence North 78° 01' 06" East 117.66 feet to a point on the West line of the Hamstring Sewage Lift Station property (Deed Book 925 at Page 782); thence along said West property line South 11° 08' 00" East 45.20 feet to a point on the North line of an existing 15 foot utility easement; thence along said North line North 87° 00' 34" West 147.80 feet; thence continuing along said North line South 51° 33' 15" West 17.28 feet; thence North 32° 41' 13" West 29.67 feet to the Point of Beginning, containing 4,725 square feet (0.11 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction Easement (south):

An eleven (11) foot temporary construction and grading easement of equal and uniform width is located along the North side of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 1,318 square feet (0.03 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Permanent Easement Description (for 8" extension):

A twenty (20) foot permanent easement of equal and uniform width located in part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2, thence South 87° 22' 00" East 594.27 feet, thence North 02° 38' 00" East 572.98 feet to the Point of Beginning, said point being on the North line of an existing 50 foot utility easement; thence along said North line North 77° 47' 36" East 20.00 feet; thence North 12° 12' 24" West 60.00 feet; thence South 77° 47' 36" West 20.00 feet; thence South 12° 12' 24" East 60.00 feet to the Point of Beginning, containing 1,200 square feet (0.03 acres), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Temporary Construction and Grading Easement Description (for 8" extension):

A ten (10) foot temporary construction and grading easement of equal and uniform width is located along the North, East, and West sides of the above described permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 1,600 square feet (0.04 acres), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

SIGNED FOR IDENTIFICATION:

Clydene Scharlau Trust dated December 22, 1997

Charles E. Scharlau, Trustee

Date: _____

Agent or Witness

Date: _____

**City of Fayetteville, Arkansas,
A municipal corporation**

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Charles E. Scharlau, Trustee of the Clydene Scharlau Trust dated December 22, 1997**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2005.

Notary Public

MY COMMISSION EXPIRES:



WATER AND WASTEWATER

VOTE TAB

WATER & SEWER COMMITTEE
MAY 9, 2005

WL-6 EASEMENT ACQUISITION IN THE AMOUNT OF \$27,000.00 PLUS
ADDITIONS

	Kyle Cook	Lioneld Jordan	Bobby Ferrell	Robert Reynolds
FOR	✓	✓	✓	N/A
AGAINST				

CERTIFIED:

Kyle Cook

Lioneld Jordan

Bobby Ferrell

Robert Reynolds

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Jun-05

City Council Meeting Date

Bob Davis

Submitted By

Water & Wastewater

Division

Director

Department

Action Required:

Approval of a lump sum to purchase easements based on completed appraisals for Wastewater System Improvements Project WL-6 (New Hamestring Pumping Station).

\$27,000.00

Cost of this request

4480.9480.5810.00

Account Number

2133.0305

Project Number

1,130,116,587.00

Category/Project Budget

17381440.29

Funds Used to Date

\$ 95,630,146.71

Remaining Balance

Wastewater System Improvements

Project/Right of Way Acquisition

Program Category / Project Name

Wastewater System Improvements

Program / Project Category Name

Wastewater System Improvements

Project Project Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution # N/A

Original Contract Date: N/A

Original Contract Number: N/A

Received in City Clerk's Office

ENTERED
5/20/05

Received in Mayor's Office

ENTERED
5/23/05

Bob Davis
Department Director

5-20-05
Date

D. J. Whit
City Attorney

5/23/05
Date

Alfred
Finance and Internal Service Director

5-25-05
Date

Don Coody
Mayor

5/26/05
Date

Comments:



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Bob Davis, Water/Wastewater Director
Stephen Davis, Finance and Internal Services Director

From: David Jurgens, Water/Wastewater

Date: May 19, 2005

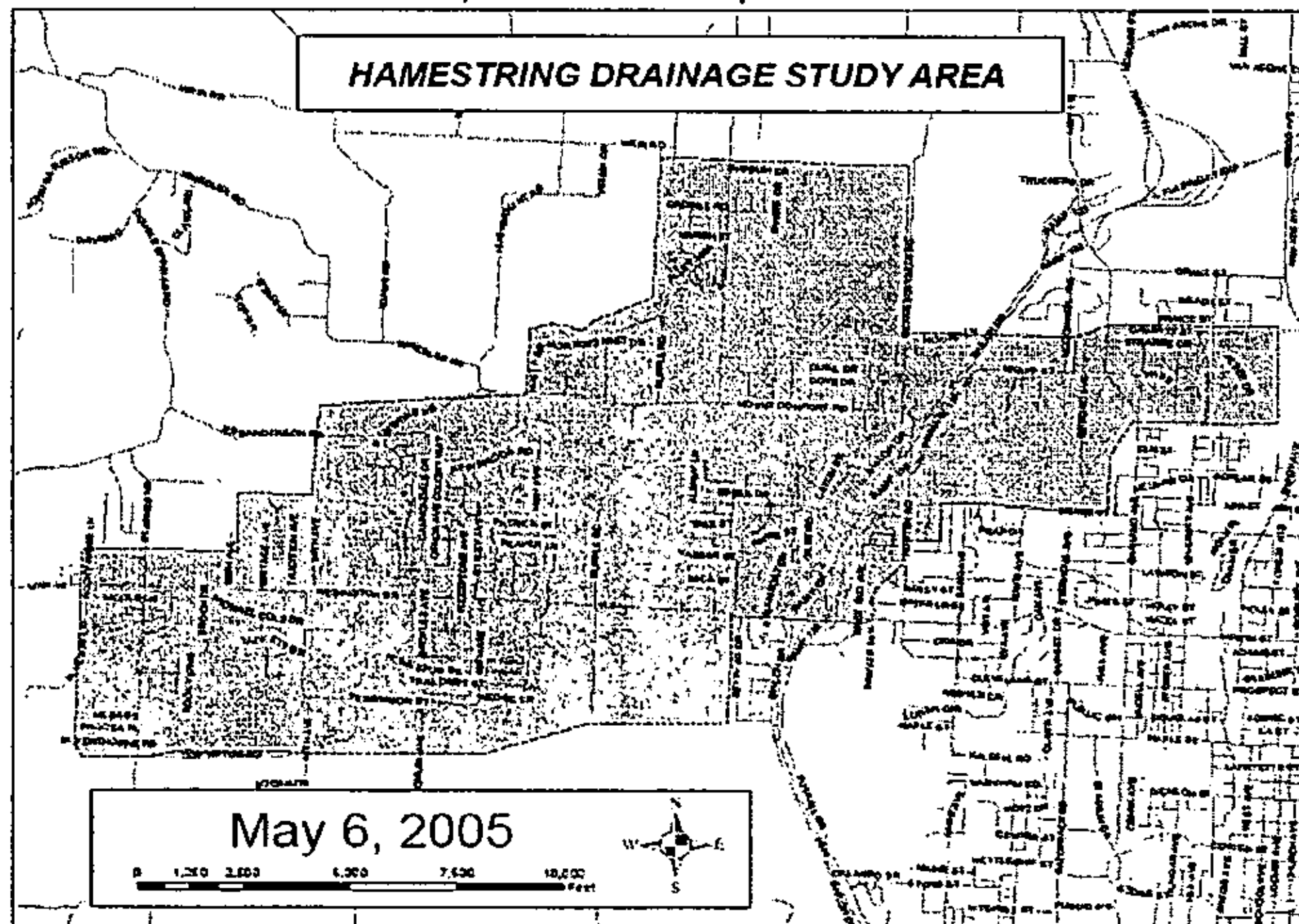
Subject: Resolution approving an engineering services contract with RJN Group, Inc., for Sanitary Sewer Evaluation Study and Design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station

RECOMMENDATION

Fayetteville City Administration recommends approval of an authorization totalling \$420,216, said amount being the face value of a proposed contract with RJN Group, Inc., and approving a 5% contingency of \$21,000.00.

BACKGROUND

The wastewater flows from a large portion of the western and northwestern parts of the City are transported to the Hamestring Creek and Owl Creek Lift Stations. The Hamestring Creek Lift Station is located near the Sunshine Road bridge that spans Hamestring Creek; the Owl Creek Lift Station located adjacent to the bridge on Double Springs Road pumps sewer to the Hamestring Creek Lift Station. The service area of these main two lift stations is depicted on the map below.





This area has seen significant growth in recent years, and there are numerous potential developments being considered. Collection system rehabilitation to reduce infiltration and inflow (I/I) in this system can offset these domestic flow increases, thus extending the life of the pumping stations and interceptors and increasing the amount of future growth than can occur in the basin. This rehabilitation project is a major component of the City's larger action plan to proactively address the continued sewer challenges in the area.

DISCUSSION

This is not a generic, theoretical study, but a detailed and specialized physical examination of every selected manhole and every inch of selected pipe in our sewer system in this area, which evaluates almost every aspect of these sewer lines and manholes. The project is similar to those recently completed in other areas of town, which have been instrumental in stopping numerous sanitary sewer overflows.

The estimated work includes physical investigations of approximately 900 manholes, smoke testing pipe, performing dyed water examinations, cleaning and televising sewer pipe, and providing a brief written report of the results. Sewer flows and rainfall will be measured at key points throughout the basin using City owned flow monitors. The basin contains some old construction (clay or truss pipe mains with some brick and some old concrete manholes) and a great deal of fairly new construction with PVC mains and vacuum tested concrete manholes. In order to not spend time and money investigating new sewer mains and manholes, most of the effort will be focused on the older lines in the system. Newer lines will be evaluated by flow evaluation; any sub-areas that appear to have significant I/I problems will be investigated more thoroughly. The system includes 283,000' of sewer pipe of varied sizes and types, and 1,200 manholes.

Some of the collection system tributary to this basin services the southwest portion of the University of Arkansas farms and is owned by the U of A. If rehabilitation is required in the U of A portion of the system, we will incorporate the SSES and all follow-on work in that area by change order. This has been coordinated with U of A Physical Plant staff.

No pipes that are being abandoned or replaced in the Wastewater System Improvement Plan will be evaluated in this study. All work performed in this study will provide permanent benefit to the City.

BUDGET IMPACT

The \$441,216.00, including the \$21,000.00 contingency, is included in the 2005 budget.

Attachments: Proposed Contract
Scope of work

RESOLUTION NO. _____

A RESOLUTION AWARDING AN ENGINEERING SERVICES CONTRACT IN THE AMOUNT OF \$420,216.00 WITH RJN GROUP, INC. FOR SANITARY SEWER EVALUATION STUDY AND DESIGN FOR ILLINOIS RIVER BASIN 15, THE AREAS TRIBUTARY TO THE HAMESTRING CREEK LIFT STATION; AND APPROVING A 5% PROJECT CONTINGENCY IN THE AMOUNT OF \$21,000.00.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards an engineering services contract in the amount of \$420,216.00 with RJN Group, Inc. for sanitary sewer Evaluation Study and Design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a 5% project contingency in the amount of \$21,000.00.

PASSED and APPROVED this 7th day of June, 2005.

APPROVED

By: DAN GOODY, Mayor

ATTEST

By:

SONDRA SMITH, City Clerk

DRAFT

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
RJN GROUP, INC.

THIS AGREEMENT is made as of _____, 2005, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and RJN GROUP, INC. with offices located in Fayetteville, Arkansas (hereinafter called RJN GROUP, INC.).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the investigation, planning, design, permitting, and construction of the Fayetteville Wastewater Collection System related to the sanitary sewer system tributary to the Hamestring Creek Lift Station known as Basin I-16. Therefore, CITY OF FAYETTEVILLE and RJN GROUP, INC. in consideration of their mutual covenants agree as follows:

RJN GROUP, INC. shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of RJN GROUP, INC.'s services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by RJN GROUP, INC. under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of RJN GROUP, INC.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of RJN GROUP, INC.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF RJN GROUP, INC.

2.1 General

2.1.1 Perform professional design services in connection with the Project as hereinafter stated.

2.1.1.1 The Scope of Services to be furnished by RJN GROUP, INC. during the Preliminary Engineering Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 The Scope of Services to be furnished by RJN GROUP, INC. during the Final Design Phase is included in Section 2.3 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.3 The Scope of Services to be furnished by RJN GROUP, INC. during the Bidding Phase is included in Section 2.4 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.4 The Scope of Services to be furnished by RJN GROUP, INC. during the Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed.

2.1.1.5 The Scope of Services to be furnished by RJN GROUP, INC. during the Post-Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed.

2.1.1.6 The preliminary Scope of Services to be furnished by RJN GROUP, INC. for Resident Services during Construction, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed. The preliminary Scope of Services for Resident Services during Construction is described in Appendix A.

2.1.2 RJN GROUP, INC. shall coordinate their activities and services with the CITY OF FAYETTEVILLE. RJN GROUP, INC. and CITY OF FAYETTEVILLE agree that RJN GROUP, INC. has full responsibility for the engineering design.

2.2 Sanitary Sewer Evaluation Study (SSES) and Engineering Report

2.2.1 Perform an SSES as described in the Scope of Services in Appendix A.

- 2.2.2 Prepare and submit an Engineering Report that describes the project's need, scope, and outcomes of the SSES. The report will include a description of sewer deficiencies, problem statements, evaluation of possible alternatives, recommended improvements, and project cost estimates.
- 2.2.3 Meet with CITY OF FAYETTEVILLE to discuss the Report. Revise the report based on comments from the reviewing parties.
- 2.3 Final Design Phase (Construction Drawings, Contract Documents and Specifications)
 - 2.3.1 Prepare for incorporation in the Contract Documents detailed drawings to show the character and scope of the Work to be performed by contractors on the Project (hereinafter called the "Contract Drawings"), and Invitation to Bid, Instructions to Bidders, Bid Form, Agreement and Bond forms, General Conditions, and Specifications (all of which, together with the Contract Drawings, are hereinafter called the "Bid Documents") for review and approval by CITY OF FAYETTEVILLE, its legal counsel, and other advisors as appropriate, and assist CITY OF FAYETTEVILLE in the preparation of other related documents.
 - 2.3.1.1 Bid documents shall be based on the appropriate Construction Specifications required by the CITY OF FAYETTEVILLE's standard general conditions and forms and RJN GROUP, INC.'s Technical Specifications as appropriate. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2000 software. Contract drawings shall be prepared using standard borders, sheet sizes, title blocks and CADD standards provided by CITY OF FAYETTEVILLE. RJN GROUP, INC. may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk AutoCAD version 2000.
 - 2.3.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project design schedule in which RJN GROUP, INC. shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by RJN GROUP, INC. in the completion of this final design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by

CITY OF FAYETTEVILLE, or for delays or other causes beyond RJN GROUP, INC.'s reasonable control.

- 2.3.1.2.1 The progress design schedule shall consist of a bar chart schedule depicting the duration of the project and the discrete milestone activities which make up the project, but at a minimum shall include contract drawings, contract specifications, and design reviews as indicated in Section 2.3.9.
- 2.3.1.3 When requested by the CITY OF FAYETTEVILLE's Water and Sewer Maintenance Superintendent, prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the final design.
- 2.3.1.4 If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall be developed and described in accordance with Title 22, Article 9-203 of the Arkansas Code.
- 2.3.2 Prepare technical criteria, written descriptions, design data, and applications necessary for filing applications for permits from or approvals of the following applicable governmental authorities having jurisdiction to review or approve the final design of the Project and assist in securing approvals. Actual Filing and Permit Fees will be paid by the CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.
 - 2.3.2.1 Arkansas Soil and Water Conservation Commission (ASWCC)
 - 2.3.2.2 Arkansas Department of Health (ADH)
 - 2.3.2.3 Arkansas Department of Environmental Quality (ADEQ)
 - 2.3.2.4 U.S. Army Corps of Engineers (COE)
 - 2.3.2.5 Arkansas State Highway and Transportation Department (AHTD)
- 2.3.3 Advise CITY OF FAYETTEVILLE of adjustments in excess of five percent of the cost opinion for the Project caused by changes in scope, design requirements, or construction costs and furnish a revised cost opinion for the Project based on the final Bid Documents.

- 2.3.4 Advise CITY OF FAYETTEVILLE of final Opinion of Probable Project Costs
- 2.3.5 Furnish CITY OF FAYETTEVILLE with 5 copies of the final Bid Documents.
- 2.3.6 Determine land and easement requirements and provide consultation and assistance on property procurement as related to professional engineering services being performed.
- 2.3.7 Provide appropriate professional interpretations of data obtained through subcontract services for authorized Project services including property, boundary, easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.
- 2.3.8 Submit monthly Work Progress Reports to CITY OF FAYETTEVILLE.
- 2.3.9 Design shall be reviewed by CITY OF FAYETTEVILLE, or such parties as CITY OF FAYETTEVILLE shall designate, at the 90 percent completion level.
- 2.3.10 See Appendix A for additional services or clarification of services to be provided by RJN GROUP, INC.
- 2.4 Bidding Phase
 - 2.4.1 Arrange for bidding notices to be sent to contractors publishing services and direct mailing to contractors of record. The legal notice to be placed in legal notices section of a local newspaper(s) of countywide and statewide circulation and shall be coordinated with CITY OF FAYETTEVILLE purchasing agent and an affidavit of publication secured.
 - 2.4.2 Prepare addenda for drawings and Bid Documents as required and submit to CITY OF FAYETTEVILLE in timely manner such that addenda can be issued by RJN GROUP, INC. in accordance with Construction Contract General Conditions.
 - 2.4.3 Secure updated state wage rate decisions and incorporate into the Bid Documents. Update wage rate decision by addendum if necessary.
 - 2.4.4 Assist CITY OF FAYETTEVILLE by issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Print and distribute copies of plans and specifications for all prospective bidders and plan rooms. Collect from prospective bidders an appropriate non-refundable fee to offset cost of reproducing and distributing Bidding Documents.

- 2.4.4.1 RJN GROUP, INC. shall attend a Pre-Bid Conference for each construction project to explain the project requirements and receive questions from prospective bidders. RJN GROUP, INC. shall consider the questions received and issue necessary clarifications and changes to the Bid Documents through the use of addenda.
- 2.4.5 Assist CITY OF FAYETTEVILLE in obtaining and evaluating bids and preparing construction contracts.
- 2.4.6 Consult with and advise CITY OF FAYETTEVILLE as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
- 2.4.7 Make recommendations regarding award of construction contracts.
- 2.4.8 Attend Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.
- 2.4.9 See Appendix A for additional services or clarification of services to be provided by RJN GROUP, INC.
- 2.5 Construction Phase
 - 2.5.1 The scope of Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.
- 2.6 Post-Construction Phase
 - 2.6.1 The scope of Post-Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.
- 2.7 Resident Services During Construction
 - 2.7.1 The scope of Resident Services During Construction, if any, will be negotiated following completion of Design Phase Services.

SECTION 3 - ADDITIONAL SERVICES OF RJN GROUP, INC.

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by RJN GROUP, INC., RJN GROUP, INC. shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances that are not included in services described in Appendix A.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond RJN GROUP, INC.'s control, RJN GROUP, INC. shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to RJN GROUP, INC. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, RJN GROUP, INC. shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of RJN GROUP, INC.

4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

4.2 Assist RJN GROUP, INC. by placing at RJN GROUP, INC.'s disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

4.3 Guarantee access to and make all provisions for RJN GROUP, INC. to enter upon public and private property as required for RJN GROUP, INC. to perform his services under this Agreement.

4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by RJN GROUP, INC. and render in writing decisions pertaining thereto.

- 4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.6 The Water/Sewer Maintenance Superintendent is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Water/Sewer Maintenance Superintendent shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.7 Give prompt written notice to RJN GROUP, INC. whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by the Project.
- 4.10 Furnish, or direct RJN GROUP, INC. to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for RJN GROUP, INC.'s use in coordinating the Contract Drawings and Specifications.
- 4.12 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to RJN GROUP, INC. in a timely manner.
- 4.13 Provide water meter and water at no cost to the ENGINEER for use during dye water testing and sewer cleaning activities.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. RJN GROUP, INC. will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Appendix B.

SECTION 6 - PAYMENTS TO RJN GROUP, INC.

6.1 Compensation

6.1.1 Final Design/Bidding Phase Services

The maximum not-to-exceed amount authorized for this Agreement is \$420,215.77. The CITY OF FAYETTEVILLE shall compensate RJN GROUP, INC. based on a Unit Price or Lump Sum basis as described in Appendix C.

- 6.1.1.1 Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should RJN GROUP, INC. establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

- 6.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Design services consistent with RJN GROUP, INC.'s normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by RJN GROUP, INC. and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for Design services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Design phase for the Project.

6.1.2 Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.3 Post-Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.4 Resident Services During Construction

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.5 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to RJN GROUP, INC. shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and progress report for each calendar month will be submitted to CITY OF FAYETTEVILLE. Statements will be based on RJN GROUP, INC.'s actual cost plus fixed fee amount and justified by the updated progress schedule.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of RJN GROUP, INC.'s statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise RJN GROUP, INC. in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, RJN GROUP, INC.

shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by RJN GROUP, INC. to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against RJN GROUP, INC. or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, RJN GROUP, INC. will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

RJN GROUP, INC. will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and RJN GROUP, INC. as additional insureds, or, to endorse CITY OF FAYETTEVILLE and RJN GROUP, INC. as additional insured on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and RJN GROUP, INC.

7.1.3 CITY OF FAYETTEVILLE and RJN GROUP, INC. waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of RJN GROUP, INC.'s services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and RJN GROUP, INC. for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 RJN GROUP, INC. will exercise reasonable skill, care, and diligence in the performance of RJN GROUP, INC.'s services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to RJN GROUP, INC. any defects or suspected defects in RJN GROUP, INC.'s services of which CITY OF FAYETTEVILLE becomes aware, so that RJN GROUP, INC. can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and RJN GROUP, INC. further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of RJN GROUP, INC.

7.2.2 In addition, RJN GROUP, INC. will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by RJN GROUP, INC.'s Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by RJN GROUP, INC. relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on RJN GROUP, INC.'s experience, qualifications, and judgment as a design professional. Since RJN GROUP, INC. has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections,

RJN GROUP, INC. does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by RJN GROUP, INC.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of RJN GROUP, INC.'s services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of RJN GROUP, INC.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that RJN GROUP, INC. is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

- 7.5.3.2 Any payment due to RJN GROUP, INC. at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of RJN GROUP, INC.'s default.
- 7.5.4 If termination for default is effected by RJN GROUP, INC., or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to RJN GROUP, INC. for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by RJN GROUP, INC. relating to commitments which had become firm prior to the termination.
- 7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, RJN GROUP, INC. shall:
- 7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
- 7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by RJN GROUP, INC. in performing this Agreement, whether completed or in process.
- 7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 7.5.7 If, after termination for failure of RJN GROUP, INC. to fulfill contractual obligations, it is determined that RJN GROUP, INC. had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.
- 7.6 Delays

In the event the services of RJN GROUP, INC. are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond RJN GROUP, INC.'s reasonable control, RJN GROUP, INC. shall be entitled

to additional compensation and time for reasonable costs incurred by RJN GROUP, INC. in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

RJN GROUP, INC.'s services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and RJN GROUP, INC. which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or RJN GROUP, INC. in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give RJN GROUP, INC. written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and RJN GROUP, INC. shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of RJN GROUP, INC. and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to RJN GROUP, INC. for services rendered by RJN GROUP, INC.

7.10 Publications

Recognizing the importance of professional development on the part of RJN GROUP, INC.'s employees and the importance of RJN GROUP, INC.'s public relations, RJN GROUP, INC. may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to RJN GROUP, INC.'s services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to RJN GROUP, INC. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of RJN GROUP, INC.'s activities pertaining to any such publication shall be for RJN GROUP, INC.'s account.

7.11 Indemnification

7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and RJN GROUP, INC. from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models (Not Applicable)

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of

CITY OF FAYETTEVILLE. RJN GROUP, INC. may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by RJN GROUP, INC. as part of the Services shall become the property of CITY OF FAYETTEVILLE when RJN GROUP, INC. has been compensated for all Services rendered, provided, however, that RJN GROUP, INC. shall have the unrestricted right to their use. RJN GROUP, INC. shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of RJN GROUP, INC.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. RJN GROUP, INC. makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

113 West Mountain Street
Fayetteville, Arkansas 72701

RJN GROUP, INC.'s address:

12160 Abrams Road, Suite 400
Dallas, Texas 75243

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and RJN GROUP, INC. each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor RJN GROUP, INC. shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between RJN GROUP, INC. and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to RJN GROUP, INC. a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by RJN GROUP, INC., shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of RJN GROUP, INC.

8.1.1 CITY OF FAYETTEVILLE's, review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve RJN GROUP, INC. of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 RJN GROUP, INC. shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by RJN GROUP, INC.'s negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.3 RJN GROUP, INC.'s obligations under this clause are in addition to RJN GROUP, INC.'s other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against RJN GROUP, INC. for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and RJN GROUP, INC. arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 RJN GROUP, INC. shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. RJN GROUP, INC. shall also maintain the financial information and data used by RJN GROUP, INC. in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. RJN GROUP, INC. will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not

apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

- 8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of RJN GROUP, INC.;
- 8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;
- 8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

RJN GROUP, INC. warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by RJN GROUP, INC. for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

- 8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that RJN GROUP, INC. or any of RJN GROUP, INC.'s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to RJN GROUP, INC. terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- 8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against RJN GROUP, INC. as it could pursue in the event of a breach of the Agreement by RJN GROUP, INC. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF

FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs RJN GROUP, INC. incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, RJN GROUP, INC. will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and _____, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

RJN GROUP, INC.

By: Hugh M. Hulse
Title: Vice President

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX A

EXPANDED SCOPE OF SERVICES AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN CITY OF FAYETTEVILLE, ARKANSAS AND RJN GROUP, INC.

SEWER SYSTEM STUDY OF THE HAMESTRING CREEK LIFT STATION AREA BASIN I-16 WASTEWATER COLLECTION SYSTEM

The City of Fayetteville retains RJN Group to provide engineering services for the evaluation, planning, design, bidding and construction assistance of applicable sanitary sewer maintenance and rehabilitation activities in the Hamestring Area (Basin I-16) sewer system, hereinafter referred to as the Project. The sewer system which flows to the Hamestring Creek Lift Station has seen significant growth and flow increases in recent years. It is anticipated that collection system rehabilitation to reduce infiltration and inflow (I/I) in this system can offset the domestic flow increases due to growth, and thus extend the life of the pumping stations and interceptors and increase the amount of future growth than can occur in the basin. The sewer system tributary to the Hamestring Lift Station containing approximately 283,000 linear feet of sewer and 1,200 manholes.

The basin contains small sections of old construction (clay or PVC truss mains with some brick and some old concrete manholes) and larger sections of fairly new construction with solid wall PVC mains and vacuum tested concrete manholes. In order to not spend time and money investigating new sewer mains and manholes, most of the effort will be focused on the older lines in the system. Newer lines will be evaluated by flow evaluation; any sub-areas that appear to have significant I/I problems will be investigated more thoroughly.

This Project will include field investigations (Phase I) and developing plans and specifications for rehabilitation of the collection system (Phase II). The field investigation phase may include manhole inspection, smoke testing, dyed water flooding, television inspection, and flow monitoring. A summary of the tasks that may be included in this Project are included in the Work Plan in the following sections.

Actual quantities for individual work tasks such as design services cannot be fully determined at this time. The quantities for these individual work tasks will be determined as the project progresses and information on the system is compiled.

Work Plan

The Work Plan includes all the necessary engineering, planning, and field tasks for developing a Sewer Rehabilitation Plan consistent with the historical practices employed for similar projects in the Fayetteville Sanitary Sewer System.

A. Project Administration

1. Mobilize project team.
2. Meet with CITY staff to develop project strategy, coordinate upcoming work, and receive CITY input.
3. Prepare a final schedule of work activities.
4. Provide general consultation with representative CITY OF FAYETTEVILLE staff on an as-needed basis.
5. Perform internal project control procedures on a monthly basis including schedule and budget control, quality control review, and monthly progress reports.
6. Perform administration and coordination of subconsultants including contract finalization, performance, coordination, and payment requests.

B. Public Relations

Public relation activities will be included as necessary to inform the public in the study area of upcoming field work. The primary focus will be on smoke testing activities. Specific tasks will include:

1. Provide door hangers for notification of residents during smoke testing activities, if any required.
2. Coordinate smoke testing activities with representatives of the CITY OF FAYETTEVILLE.

SEWER SYSTEM STUDY

A. Flow Monitoring

Flow monitoring will be conducted at specific locations within the study area. It is anticipated that six (6) City-owned meters will be utilized during the study period. CITY staff with assistance from RJN staff, will service the meters on a weekly basis for a period of 60 days. The CITY's rain gauge network will be utilized during the study and two to three additional temporary rain gauges to supplement the network. Services to be provided by RJN include:

1. Assist the CITY's staff with servicing of the CITY's temporary flow meters on a weekly basis for a period of 60 days. Review the weekly manual depth and velocity profiles to verify the accuracy of the meters.
2. Processing the rain gauge data on a weekly basis.

3. Analyzing flow data to determine the following:
 - a. Average daily dry-weather flow and peaking factors.
 - b. Peak infiltration rates if possible.
 - c. Peak inflow rates for selected rainfall events and establish the relationship between peak inflow and rainfall (Q vs I) for each monitoring site.
4. Analyzing wastewater flow data from the U of A collection system that is tributary to Basin I-15. The analysis will include determining the I/I contribution from the U of A and making recommendations for any additional investigation, if necessary.

B. Manhole Inspection

It is anticipated that all manholes, except those shown on Exhibit 1 as not being included in the study, will be evaluated either by inspection from above ground (newer manholes) or by below ground inspection (older manholes). RJN will perform the field inspection and collect any data necessary to complete the manhole rehabilitation construction documents. Specific field tasks will include the following as necessary:

1. Perform inspection at manholes and record data on computerized data form.
2. Perform computerized analysis of I/I inspection data with quantification of observed defects.

C. Rainfall Simulation

This task will specifically identify sections of sewer lines and sources where excessive infiltration and inflow may be expected to occur during wet-weather periods, including locations of stormwater transfer into the sanitary sewer system. It is anticipated that only the sewer lines indicated on Exhibit 1 will be smoke tested initially. Should the flow analysis show that additional lines contain excessive I/I, these will also be included in the smoke testing activities.

Work will include smoke testing and dyed water flooding using comprehensive testing techniques developed by RJN for such studies. A dual blower intensified smoke technique will be utilized to test sewer lines in the selected areas. This enhanced method uses two smoke blowers for each test segment instead of the conventional technique of one blower, and includes partial plugging of the segment. The objective is to identify connections from typical sources such as catch basins, roof leaders, yard drains, area drains, and detectable main line and lateral defects. Smoke testing will be performed only during dry periods to maximize the effectiveness of the smoke testing program.

Inflow sources may also be identified by means of dyed water flooding of storm sewer sections and suspected overflows, stream sections, ditch sections, and ponding areas that may be contributing to inflow. Some of the test areas are based on results of RJN'S smoke testing program. Positive dye tests are quantified for leakage rate. Field test data are input to the computerized data management system and analyzed.

Specific tasks to be included are the following:

1. Perform dual blower smoke testing with partial plugging on adjacent manholes, secure photographs of defects, and record results on computerized data form.
2. Perform computerized analysis of smoke testing data and select dyed water flooding locations.
3. Perform dyed water flooding at selected locations and record data on computerized data forms and perform computerized analysis of data.
4. Perform computerized data analysis of smoke test and dyed water data with quantification of observed defects.

D. Dyed Water Flooding/TV Inspection Activities

A remote-controlled television camera will be placed in the sewer line to observe the leakage of water from simultaneous dyed water flooding of defects along the main sewer lines. This inspection will allow the proper identification of each defect and selection of the correct rehabilitation method. Cleaning and television inspection will be provided by a subcontractor to the ENGINEER. Heavy cleaning is not included in the cost proposal. Some cleaning and televising support may be provided by the City.

ENGINEER will provide coordination of the inspection and simultaneous dyed water flooding of the suspect defects.

E. Data Analysis and Report

RJN will analyze all inspection data collected by RJN during this study and will make recommendations for repairs. Specific tasks that are included area as follows:

1. Develop rehabilitation and improvement costs for various types of infiltration/inflow defect repairs and sewer improvements including, but not limited to:
 - a. Main Replacement
 - b. Point Repair
 - c. Inversion Lining

- d. Pipe Bursting
 - e. Manhole Rehabilitation
 - f. Manhole Replacement
- 2. Develop recommendations for rehabilitation of both public and private I/I sources in priority order, cost estimates by individual rehabilitation type, and estimated I/I reduction as a result of the recommendations.
 - 3. Prepare and submit two (2) copies of a draft report which includes results of the I/I investigations, findings, cost estimates, recommended plan to reduce I/I, and a preliminary schedule of implementation for sewer rehabilitation. The draft report will be presented and discussed with CITY staff. After comments are received, a final report will be prepared and submitted to the CITY. RJN will provide three (3) copies of the final report.

FINAL ENGINEERING DESIGN/BIDDING ASSISTANCE

A. Manhole Rehabilitation Design

The extent of manhole rehabilitation is not known at this time. The actual quantities of design will be determined after the review of the previous inspection data and any subsequent inspections are performed. Generally, the manhole rehab design activities will include the following:

- 1. Review reports from the Manhole Inspection Program to determine I/I sources to be rehabilitated.
- 2. Evaluate site specific manhole repair alternatives including cover type, grade adjustments, sealing techniques, manhole interior repairs, and/or manhole replacement.
- 3. Using RJN's basic specifications, prepare project specifications which shall include but not be limited to: (1) bidding documents, (2) contractual documents, (3) conditions of the contract, (4) standard project forms, (5) technical specifications, (6) schedule of manhole rehabilitation, (7) location map and (8) general details.
- 4. Prepare Engineer's Opinion of Probable Construction Cost.

5. Submit two (2) copies of the draft contract documents to the CITY for review.
6. Perform final changes to contract documents based on CITY review.
7. Submit two (2) copies of the final contract documents to the CITY.

B. Sewer Line Rehabilitation

The extent of sewer rehabilitation is not known at this time. The actual quantities of design will be determined after the review of the previous inspection data and any subsequent inspections are performed. Generally, the sewer line design activities will include the following:

1. Review reports for infiltration and inflow sources to be rehabilitated, sewer line maintenance items, and sewer line replacement.
2. Perform sewer profile level survey and site inspections for sewer replacement.
3. Investigate public utility locations.
4. Evaluate pipe repair alternatives including pipe replacement, pipe bursting, and lining options as necessary because of site conditions.
5. Provide the CITY with the technical information for location of the easements, if any, required for construction of the project. Information to include width and general location of the easements, and distances from the property lines. Property line information shall be obtained from existing maps provided by the CITY to the ENGINEER.
6. Prepare contract design drawings for I/I rehabilitation, sewer replacement and/or sewer lining. Drawings shall indicate permanent and temporary easements for construction based on information supplied by CITY. Drawings shall include but not be limited to: (1) title sheet/drawing index, (2) location maps, (3) schedule of manhole rehabilitation, (4) plan and profile of replacement segments, (5) plan of repair line segments, (6) special details, and (7) general details.
7. Using Engineer's basic specifications, prepare project specifications which shall include but not be limited to: (1) bidding documents, (2) contractual documents, (3) conditions of the contract, (4) standard project forms, and (5) technical specifications.
8. Prepare Engineer's Opinion of Probable Construction Cost by major items.
9. Submit two (2) copies of the draft plans and specifications to the CITY for review.

10. Perform final changes to contract documents.
11. Submit five (5) copies of the final project drawings and contract specifications to the CITY for review.
12. Assist the CITY in obtaining permit approvals from regulatory authorities.

C. Additional Services

1. Conduct horizontal and vertical control survey necessary for design of the project.
2. Obtain typical soil boring data for replacement sewer locations, as required.
3. After approval by the CITY, the ENGINEER will prepare, type, and issue legal description of easements. The CITY will secure easements as necessary.
4. Assistance in obtaining permit from Highway Department, Health Department, and any other state permits, if necessary, for sewer construction.

D. Bidding Assistance

It is anticipated that two (2) construction contracts will be bid. The first contract to be completed and bid shall include justified manhole rehabilitation activities. The second contract bid shall include sewer line and appurtenant elements, including maintenance, repair, rehabilitation and replacement work. The following bidding assistance services are included for the two contracts.

1. Assist the CITY in advertising, obtaining, and evaluating Bid Proposals for the construction contract and awarding thereof. Provide assistance to the CITY in responding to bidder inquiries during advertisement of the construction contract, and participate in project pre-bid conference. Provide and distribute bidding documents and addendum. Non-refunded bid deposits shall remain the property of RJN for administrative, printing, and handling cost.
2. Assist the CITY in reviewing the bids for completeness and accuracy. Develop bid tabulations and submit a written recommendation of contract award to the CITY along with three (3) copies of the bid tabulations.
3. Consult with and advise the CITY on the responsibility and responsiveness of contractors, the acceptability of subcontractors, substitute materials, and equipment proposed by the project bidders.

RESIDENT ENGINEERING

RJN GROUP, INC. is available to provide resident engineering services under a separate negotiated amendment. These services may include the following:

A. Resident Engineering

1. Provide the successful bidder(s) with three (3) sets of the contract specifications for execution and the insertion of the required insurance certificates. Provide the successful bidder(s) with five (5) sets of the contract documents for construction purposes.
2. Assist the CITY in conducting a pre-construction conference with the Contractors by notifying utilities, governmental agencies, and other interested parties, and answer questions at the conference.
3. Review shop drawings, scheduling, test results, and other submittals which the Contractor is required to submit.
4. Consult with CITY and act as the CITY's engineering representative in dealings with the Contractor. Issue instructions of CITY to Contractor and issue necessary interpretations and clarification of the contract specifications.
5. Provide engineering survey(s) for construction to establish horizontal and vertical reference points which are necessary for the Contractor to construct the work. Coordinate the taking of preconstruction photos and surface video taping with the Contractor as necessary.
6. Provide resident observation for rehabilitation and sewer replacement construction for general conformance to the contract drawings and contract specifications. Also provide resident observation of acceptance testing and restoration work by the Contractor.
7. Review and respond to complaints received by CITY and report any differences of opinion between the Contractor, ENGINEER and complaining party.
8. Review applications for partial payment with the Contractor for compliance with contract specifications and submit to the CITY a recommendation for payment.
9. Issue field orders to Contractor after consultation with the CITY. Review any change orders proposed by the Contractor and provide recommendations to the CITY.
10. Conduct an on-site review to determine if the projects are substantially complete and submit to the Contractor a list of observed items requiring completion or correction.

11. Conduct a final on-site review, in the company of the CITY and Contractor, to verify the projects are fully complete. Submit a recommendation for final acceptance of the projects to the CITY.
12. Provide the CITY with three (3) sets of black line prints of the record drawings.
13. Provide the CITY with a report that summarizes I/I sources that have been removed and listing of line segments and their attributes that have been added.
14. RJN will not be responsible for the means or sequences of the construction work, or the implementation program for safety of the construction contractor and subcontractors and it will be stipulated as such in the contract documents.



APPENDIX B
CITY OF FAYETTEVILLE
BASIN I-15
WASTEWATER COLLECTION SYSTEM
SCHEDULE

2005													2006				
ID	Task Name	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	
1	PROJECT ADMINISTRATION																
2	PUBLIC RELATIONS																
3	FLOW DATA ANALYSIS				1/												
4	MANHOLE INSPECTION																
5	RAINFALL SIMULATION					1/											
6	TV INSPECTION																
7	DATA ANALYSIS/REPORT																
8	MANHOLE REHAB DESIGN																
9	SEWER LINE REHAB DESIGN 2/																
10	BIDDING ASSISTANCE																
	MANHOLE																
	SEWER LINE																
PROJECT: FAYETTEVILLE I-15 WASTEWATER COLLECTION SYSTEM DATE: 5/17/05																	
TASK		Schedule															
1/ Weather dependent.																	
2/ Timing of the sewer line rehabilitation shall be determined by funding availability. It may be initiated in either 2006 or 2007.																	

APPENDIX C

SUMMARY OF COST City of Fayetteville Illinois River Watershed Basin I-15 Hamestring Creek Lift Station Area Sewer System Study

Task Description	Quantity	Unit Cost	Cost (\$)
<u>PHASE I</u>			
<u>Sewer System Study</u>			
A. Project Administration	1	\$22,375.00/LS	22,375.00
B. Data Management	1	\$16,240/LS	16,240.00
C. Public Relations	1	\$3,096.00/LS	3,096.00
D. Flow Data Analysis	1	\$10,600.00/LS	10,600.00
E. Manhole Inspection			
Above Ground	695	\$66.26/EA	46,050.70
Below Ground	210	\$86.88/EA	18,244.80
F. Rainfall Simulation			
<u>Smoke Testing (Dual-Blower)</u>			
Street	130,950	\$0.377/LF	49,368.15
Off Street	75,566	\$0.440/LF	33,249.04
<u>Dyed Water Flooding</u>	40	\$290.00/EA	11,600.00
G. Flow Isolation	24	\$219.67/EA	5,272.08
H. TV Inspection Coordination			
Cleaning/TV Inspection	15,000	1/	28,500.00
Concurrent Dye Testing	15,000	\$1.44/LF	21,600.00
Data Analysis and Report	1	\$29,020/LS	29,020.00
Subtotal Sewer System Study Cost			295,215.77
<u>PHASE II FINAL DESIGN</u>			
Design Allowance	2/	2/	100,000.00
Survey Allowance	2/	2/	25,000.00
Subtotal Design Services			125,000.00
<u>PHASE III CONSTRUCTION</u>			
3/	3/	3/	
Total			420,215.77

1/ Unit price will be in accordance with schedule in Appendix B-1.

2/ Because of the nature and extent of design services are not known at this time, an allowance is included in the Contract. The allowance will allow RJN GROUP, INC. to begin work in order to maintain the schedule. It is understood by the CITY OF FAYETTEVILLE and RJN GROUP, INC., that after completion of the field investigation the full extent of design services will be known. At that time, RJN GROUP, INC. shall estimate the total cost to establish the compensation for design services.

3/ To be negotiated under a separate amendment to this Agreement.

APPENDIX C-1

COMPENSATION SCHEDULE
FOR CLEANING AND TV INVESTIGATION

Size	Access	Light Cleaning	Heavy Cleaning	TV Rate
6-8"	Street	\$0.83	\$0.88	\$0.83
6-8"	Easement	\$1.05	\$0.99	\$0.94
6-8"	Remote	\$1.15	\$1.38	\$1.05
10-12"	Street	\$0.83	\$0.88	0.83
10-12"	Easement	\$1.05	\$0.99	\$0.94
10-12"	Remote	\$1.38	\$1.48	\$1.05

Remote is defined as 200 linear feet from a paved surface. Heavy Clean is in addition to a light clean.

Cleaning payment is based on actual footage of pipe cleaned, not actual completed television inspection.



WATER AND WASTEWATER OPERATIONS

To: Engineering Selection Committee

From: David Jurgens, Water/Sewer

Date: 11 May 2005

Re: Engineering Services Selection, Sanitary Sewer Rehabilitation, Illinois River Basin 15

1. Background. The sewer system which flows to the Hamestring Creek lift station (2034 N County Road 877, where Sunshine Road turns south to 51st Avenue) has seen significant growth and flow increases in recent years. Collection system rehabilitation to reduce infiltration and inflow (I/I) in this system can offset the domestic flow increases due to growth, and thus extend the life of the pumping stations and interceptors and increase the amount of future growth than can occur in the basin.

2. Project Intent. This project is designed to reduce the extraneous I/I so that the system can meet current and future demands. The primary area to be studied is the west and north portion of town, shown on the attached map. We experience wet weather sanitary sewer overflows at three manholes in and downstream from this area.

3. Physical Characteristics and Resulting Investigation. The basin some old construction (clay mains with some brick and some old concrete manholes) and a great deal of fairly new construction with PVC mains and vacuum tested concrete manholes. In order to not spend time and money investigating new sewer mains and manholes, most of the effort will be focused on the older lines in the system. Newer lines will be evaluated by flow evaluation; any sub-areas that appear to have significant I/I problems will be investigated more thoroughly. The system includes 283,000' of sewer pipe of varied sizes and types, and 1,200 manholes. We expect to use city owned flow meters and a combination of City and RJN owned rain gauges.

No work should be performed on any component of the system that will be removed with the Wastewater System Improvement Project.

4. University of Arkansas Collection System. Some of the collection system tributary in this basin services the southwest portion of the University of Arkansas farms and is owned by the U of A. Specifically, it includes the lines that flow south from the farms and connect to the City main in the Porter Road just south of the I540/Porter Road exit. Scott Turley, U of A Physical Plant, has stated the U of A's intent to participate, and has approved our request to install a flow monitor in the downstream reaches of the U of A collection system to identify if there is an I/I problem or any unusual flow characteristics in this area. If we identify I/I problems in this area, we will consider a joint effort similar to what we did on the main parts of campus several years ago. As the need is not yet

identified, we will first do the basic flow analysis, and then identify if rehabilitation is required in the U of A portion of the system. If some is required, we can then incorporate the SSES and all follow on work by change order. The U of A will also be included in or informed about the project to the extent that he may request.

5. Project Description. The total project will be executed in three phases. This selection covers all phases. Phases 2 and 3 will probably be contracted at a later date.

A. Phase I. Preliminary Engineering (Sanitary Sewer Evaluation) Study. This is one part of the engineering work for which we are making the selection at this time, and involves a thorough investigation of the sewer system to identify all sources of inflow and infiltration through which rain and ground water enters the sewer system. It will also identify major structural and capacity defects, and will take recurring maintenance problems into account. The product will be a recommended construction plan with cost-effective repair analysis.

The **estimated** work includes physical investigations of approximately 1,200 manholes, smoke testing pipe, performing dyed water examinations, cleaning and televising sewer pipe, and providing a brief written report of the results. Sewer flows and rainfall will be measured at key points throughout the basin using a mixture of City owned and consultant owned flow monitors and rain gauges.

This is not a generic, theoretical study, but a detailed and specialized physical examination of every selected manhole and every inch of selected pipe in our sewer system in this area, which evaluates almost every aspect of these sewer lines and manholes. The project is similar to those recently completed in other areas of town, which have been instrumental in stopping numerous sanitary sewer overflows.

B. Phase II. Final Engineering Design. This phase includes the design of the rehabilitation and the bidding process. The design will be based on the SSES. The design firm selection will be made simultaneous with the SSES selection.

C. Phase III. Construction. This phase involves the actual manhole and sewer line construction and rehabilitation, and inspecting and supervising the contractor(s) who perform the work. This project will probably include two or three construction projects- one for manhole work and two for different types of main line repairs and replacement. Construction should begin in 2006, and should last from 18 to 24 months.

6. Budgeting. The sewer rehabilitation project is in the 2004 Capital Improvements Plan, and is funded by water/sewer revenue funds. This project will use funds from multiple years.

Enclosures: Project Area Map

**City of Fayetteville
 Staff Review Form
 City Council Agenda Items
 or
 Contracts**

7-Jun-05
 City Council Meeting Date

David Jurgens Water/Wastewater Water/Wastewater
 Submitted By Division Department

Action Required:

Approve an engineering services contract with RJN Group, Inc., in the amount of \$420,216 for a detailed Sanitary Sewer Evaluation Study and Design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station, and approving a 5% contingency of \$21,000.00.

<u>\$441,216.00</u> Cost of this request	<u>\$ 5,419,133.00</u> Category/Project Budget	<u>Sanitary Sewer Rehabilitation</u> Program Category / Project Name
<u>5400-5700</u> Account Number	<u>\$ 699,261.91</u> Funds Used to Date	<u>Sanitary Sewer Rehabilitation</u> Program / Project Category Name
<u>02017</u> Project Number	<u>\$ 4,719,871.09</u> Remaining Balance	<u>Water/Sewer</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Bob Davis 5-20-05 Previous Ordinance or Resolution # _____
 Department Director Date Original Contract Date: _____

D.D. f. Whit 5/25/05 Original Contract Number: _____
 City Attorney

Steve Davis 5-25-05 Received in City Clerk's Office 
 Finance and Internal Service Director Date

Don Coody 5/26/05 Received in Mayor's Office 
 Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director
Date: May 20, 2005
Subject: Lake Recreation Fees

Information requested by City Council at the May 17, 2005 meeting is addressed below.

Number of citizens on the lake boat stall waiting list is as follows:

Lake Sequoyah: There are 65 boat stalls of which 20 are not currently rented.
 There are no citizens on a waiting list.

Lake Fayetteville: There are 43 boat stalls with a waiting list of 28 citizens.

Number of boat stalls that are currently rented to citizens that are not using the lake.

Lake Sequoyah: 21 citizens

Lake Fayetteville: 10 citizens

Dry outdoor boat storage costs in Fayetteville and Springdale.

Dry Storage Business		Monthly	Yearly	
Allied Self Storage	85 E 15th, Fayetteville	\$25	\$270	10% discount for year, 5% for 6 months
Arkansas Self Storage	2325 N Gregg, Fayetteville	\$30	\$360	\$10 set up fee
D&D Storage	1199 Mally Wagnon Rd, Fayetteville	\$20	\$240	14 months for payment of 12
Key Port Self Storage	1660 N College, Fayetteville	\$22	\$242	\$15 deposit, pay 11 months - 12th free
Lake Side Self Storage	645 W 265, Springdale	\$25	\$300	no discounts
Armstrong Storage Center	2084 S Armstrong, Fayetteville	\$25	\$275	\$15 deposit, pay 11 months - 12th free
All Star Storage	1821 E Hwy 264, Springdale	\$20	\$240	\$5 deposit

** Note: Fees do not include tax.

RECOMMENDATION

Jim Black, who has been the Lake Fayetteville Boatdock Operator for the past seventeen years, made the follow recommendations for the Lake Recreation Fees.

Daily Boating and Fishing: \$6/day
 Daily Boating and Fishing Sr. Citizen: \$5/day

Daily Bank/Dock Fishing: \$3/day
 Daily Bank/Dock Fishing Sr. Citizen: \$2/day

Season Boating and Fishing: \$50
 Season Boating and Fishing Sr. Citizen: \$40

B.1. Lake Fees
Pg. 3

Lake Fayetteville & Lake Sequoyah		2004 # of Permits	2004 Fee Revenues		2005 Revenues Projected	Current Fee	Estimated Revenues based on 2004 permits sold.				PRAB Recom- mendation	Revenues	Current Fee	2	3	4,933	Daily Boat/Dock Fishing	14,949
Total Permits Sold		6821			6821									2	3	4,933	Daily Boat/Dock Fishing	14,949
Daily Fishing - Senior	6793	\$ 2	\$ 13,586	6793	\$ 2	\$ 13,586	\$ 2	\$ 1	\$ 2	\$ 13,586	\$ 3	\$ 20,378	\$ 2	\$ 1	\$ 2	4,933	Daily Boat/Dock Fishing Sr. Citizen	\$
Daily Fishing - Senior	613	\$ 1	\$ 613	613	\$ 1	\$ 613	\$ 1	\$ 1	\$ 1	\$ 613	\$ 2	\$ 1,226	\$ 1	\$ 1	\$ 2	344	Daily Boat/Dock Fishing Sr. Citizen	\$
Daily Boating	1810	\$ 2	\$ 3,620	1810	\$ 2	\$ 3,620	\$ 2	\$ 2	\$ 2	\$ 3,620	\$ 6	\$ 10,860	\$ 2	\$ 3	\$ 6	1,810	Daily Boating & Fishing	\$
Daily Boating - Senior	201	\$ 1	\$ 201	201	\$ 1	\$ 201	\$ 1	\$ 1	\$ 1	\$ 201	\$ 5	\$ 1,005	\$ 1	\$ 1	\$ 5	168	Daily Boating & Fishing Sr. Citizen	\$
Season Fishing	369	\$ 20	\$ 7,380	369	\$ 20	\$ 7,380	\$ 20	\$ 20	\$ 20	\$ 7,380	\$ 30	\$ 11,070	\$ 20	\$ 30	\$ 30	186	Season Boat/Dock Fishing	\$
Season Fishing - Senior	132	\$ 15	\$ 1,980	132	\$ 15	\$ 1,980	\$ 15	\$ 15	\$ 15	\$ 1,980	\$ 20	\$ 2,640	\$ 15	\$ 20	\$ 20	49	Season Boat/Dock Fishing Sr. Citizen	\$
Season Boat	183	\$ 20	\$ 3,660	183	\$ 20	\$ 3,660	\$ 20	\$ 20	\$ 20	\$ 3,660	\$ 50	\$ 9,150	\$ 20	\$ 50	\$ 50	183	Season Boating & Fishing	\$
Season Boat - Senior	83	\$ 15	\$ 1,245	83	\$ 15	\$ 1,245	\$ 15	\$ 15	\$ 15	\$ 1,245	\$ 40	\$ 3,320	\$ 15	\$ 40	\$ 40	83	Season Boating & Fishing Sr. Citizen	\$
Lk Fay. Boat Stall Rental Resident	24,415	\$200	\$ 4,883	24,415	\$200	\$ 4,883	\$ 200	\$ 400	\$ 8,768	\$ 250	\$ 6,104	\$ 200	\$ 200	\$ 250	\$ 250	25	Plus \$50 for fishing & boating fee or \$40 for Sr. Citizen	\$
Lk Fay. Boat Stall Rental Non-Resident	20	\$280	\$ 5,200	20	\$280	\$ 5,200	\$ 280	\$ 520	\$ 10,400	\$ 325	\$ 6,500	\$ 260	\$ 260	\$ 325	\$ 325	20	Plus \$50 for fishing & boating fee or \$40 for Sr. Citizen	\$
Lk Seq. Boat Stall Rental	69,41	\$ 80	\$ 5,553	69,41	\$ 80	\$ 5,553	\$ 80	\$ 160	\$ 11,106	\$ 100	\$ 6,941	\$ 80	\$ 80	\$ 100	\$ 100	70	Plus \$50 for fishing & boating fee or \$40 for Sr. Citizen	\$
City Taxes Collected .0175%		\$	\$ 839		\$	\$ 839		\$	\$ 1,116		\$ 1,386							\$
Total		\$	\$ 48,759		\$	\$ 48,759		\$	\$ 64,876		\$ 80,881							\$ 67,228

Lake Fee Increase
p. 1 of 2

City Council Meeting of May 17, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *G.D.*

From: Connie Edmonston, Parks and Recreation Director *C.E.*

Date: April 15, 2005

Subject: An amendment to Ordinance 4168 regarding Lake Recreation Fees.

RECOMMENDATION

Parks and Recreation Advisory Board (PRAB) recommends City Council to amend Ordinance 4168, increasing Lake Recreation Fees at Lake Fayetteville and Lake Sequoyah. Further, Parks and Recreation Staff recommends amending this ordinance assigning the Mayor, or his/her designee, to review these fees on an annual basis determining the annual permit/rental fees according to the Fee Policy.

BACKGROUND

In February 2005, Parks and Recreation Staff met with the Ordinance Review Committee concerning fee based services offered by the Parks and Recreation Division. Among the fee based services evaluated was the lake revenues. The conclusion of the Ordinance Review Committee was to increase the stall rental fees, leaving the daily and season fees the same.

At the March 7, 2005 Parks and Recreation Advisory Board (PRAB) meeting, PRAB tabled the decision to increase lake fees in order to encourage public input. One month later at the April 4, 2005 meeting, PRAB listened to several concerned citizens who expressed their dislike of the 100% increase of the boat stalls. PRAB recognized the need for an increase in user fees, but preferred to spread the increase across the entire user group, instead of only to participants renting stalls. (See attached proposed fees and predicted revenue.)

Left on the first reading 5/17/05

Lake Fee Increase
p. 2 of 2

Below is the proposed fees as recommended by PRAB.

	Current Fee	Proposed Fee
Daily Fishing	\$2	\$3
Senior Citizen	\$1	\$2
Daily Boating	\$2	\$6
Senior Citizen	\$1	\$5
Season Fishing	\$20	\$30
Senior Citizen	\$15	\$20
Season Boating	\$20	\$50
Senior Citizen	\$15	\$40
Lake Fayetteville Stall Rental	\$200	\$250
Non Resident	\$260	\$325
Lake Sequoyah Stall Rental	\$ 80	\$100

DISCUSSION

If City Council passes the amendment as Staff proposes, it will do two things. First, the Lake Recreation fees will be increased. This increase, as proposed and passed by PRAB, will increase lake revenues by approximately \$31,000 per year. In 2004, Lake Revenues were \$47,805. If participation numbers remain equal to the 2004 numbers, revenues at the new rates will be \$79,050. The fees would become effective January 1, 2006. The last increase in fees at the lakes was on June 1, 1999.

Second, if Council approves, the decision to delegate the determination of fees will be assigned to the Mayor or his/her designee. This will be consistent with current practices on park facility rental and swimming pool fees. Annually, PRAB and Staff will review the fees to be consistent with the City's Fee Policy.

Attached are PRAB minutes, fee proposal/predicted revenue, and previous Lake Recreation Ordinance. If you have any questions, please call me at 444.3471.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §97.070 OF THE CODE OF
FAYETTEVILLE RECREATIONAL ACTIVITIES AT LAKES
FAYETTEVILLE, SEQUOYAH AND WILSON (B) (1)
PERMITS AND (C) FEES**

WHEREAS, the City Council Ordinance Review Committee recommended increases for
use of city lakes and boat docks; and

WHEREAS, the Parks and Recreation Advisory Board recommended a modified version
of the increase in user fees for City Council approval.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals
§97.070 (B)(1) and (C) to be replaced as shown below:

“§97.070 (B) Permits for fishing and boating

“(1) Permits:

(a) Season fishing permit (65 and older)	\$20.00
(b) Season fishing permit (16-64)	\$30.00
(c) Daily fishing permit (65 and older)	\$ 2.00
(d) Daily fishing permit (16-64)	\$ 3.00
(e) Daily fishing permit (under 16 with permitted adult)	Free.”

“(C) Boat docking – Boat docking shall be permitted at the
boat docks at Lake Sequoyah and Lake Fayetteville on a space
available basis for the following per boat annual fees:

(1) Lake Fayetteville

(a) City resident	\$250.00
(b) Non-resident	\$325.00

(2) Lake Sequoyah \$100.00.”

PASSED and APPROVED this 17th day of May, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

Alternative Revenue Enhancement

		2004 Permits Sold	Current Fee	Revenue	Proposed Fee	Proposed Revenue
Daily Fishing		6793	\$2	\$13,586	\$3	\$20,379
	Seniors	613	\$1	\$613	\$2	\$1,226
Daily Boating		1810	\$2	\$3,620	\$6	\$10,860
	Seniors	201	\$1	\$201	\$5	\$1,005
Season Fishing		369	\$20	\$7,380	\$30	\$11,070
	Seniors	132	\$15	\$1,980	\$20	\$2,640
Season Boating		183	\$20	\$3,660	\$50	\$9,150
	Seniors	83	\$15	\$1,245	\$40	\$3,320
L. Fay. Stall Rental		24	\$200	\$4,800	\$250	\$6,000
L. Fay. Stall Non-Residential		20	\$260	\$5,200	\$325	\$6,500
L. Seq. Stall		69	\$80	\$5,520	\$100	\$6,900
Total				\$47,805		\$79,050

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
March 7, 2005

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:35 p.m. on March 7, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Jerry Bailey.

Present:

Parks and Recreation Advisory Board members Bailey, Mauritson, Harrison, Davidson, Langsner, Marley and Pawlik Holmes; City staff Jumper, Hatfield, Edmonston, Mihalevich, Whillock, Wright and Audience.

9. Lake Recreation Fee Proposal: Connie Edmonston

Edmonston reported that after extensive study on Park's fee-based services the Ordinance Review Committee has requested an increase in boat stall rental fees.

Mauritson asked if the increase would make up the deficit of the costs versus fees.

Edmonston said that Staff's choice would be to have gradual increases over a few years rather than a large increase at one time.

Bailey said public input should be solicited to determine how they feel.

Davidson stated that the benchmarking that's been done is not on comparable property because we have city lakes and the only nearby comparison is Beaver Lake.

Bailey said he had tried to look at other states lakes and there's no comparison to go by. He suggested focusing on paying the bills due to lack of an average to compare Fayetteville's costs.

Maruitson suggested discussion be tabled to collect input and asked if a notice to the public will be posted at both Lake Fayetteville and Lake Sequoyah.

Edmonston confirmed that would be the case...a notice would be posted.

Bailey moved to table the proposal for 30 day public input.

Mauritson seconded.

The motion was approved 7-0-0 with Mauritson, Bailey, Davidson, Harrison, Pawlik-Holmes, Langsner and Marley voting 'yes', and Hill absent for the vote.

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes April 4, 2005

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:35 p.m. on March 7, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Jerry Bailey.

Present:

Parks and Recreation Advisory Board members Hill, Bailey, Harrison, Langsner, Marley, Davidson, Mauritsen, and Park Staff Hatfield, Edmonston, Mihalevich, Coles, Whillock, Wright and Audience. Scout Troop 116 sponsored by Lake Sequoyah Church was in attendance as part of a badge requirement to attend a board meeting.

3. Lake Recreation Fees: Tabled from March 7, 2005 PRAB Meeting

Connie Edmonston said the Lake Recreation Fees issue had been tabled from the March Board meeting in order to allow for public input. She stated that several phone calls had been received raising concern about the amount of increase in the original recommended increase. She said an alternate plan has been developed by Parks Staff that will provide for smaller fee increases.

Harrison voiced concern about the original recommended increase for seniors. The increase will cause hardship for seniors on fixed incomes. He suggested the alternate plan is an acceptable alternative.

Bailey said he is uncomfortable with the alternative plan due to the shortfall to cover expenses and pointed out that many cities charge as much as double the charges currently in place at Fayetteville lakes.

Bob Reynolds, a citizen, stated that most people fishing at Lake Fayetteville are 65 and older and he believes the alternative will serve as a starting point with increases phased in over time.

Bobby Farrell, a citizen, said he favors the alternative noting that the highest percentage of users of the lakes are senior citizens on fixed incomes and therefore would be most heavily impacted by the increase. He said he favors the alternative plan.

Wendell Johnson, a citizen, said he uses Lake Sequoyah and noted 90% of fishermen on Lake Sequoyah are 65 or older. He said he's not against an increase but wanted to point out that the comparison with Beaver Lake may not be appropriate due to the size of boats on the city's lakes being much smaller than the boats on Beaver Lake.

Glen Riggins, a citizen, noted that the condition of the facilities at Lake Sequoyah is poor. He also pointed out that the use of the walking trails has no charge so questioned the increase of fishing fees.

Bailey suggested 100% increase as proposed in the original plan for non-seniors and the alternative plan for seniors only.

Mauritson noted that stall rentals are increased by 100% at Lake Sequoyah while Lake Fayetteville would be increased only 50%. He asked if that increase can be made equitable.

Edmonston explained that Lake Sequoyah is in need of more repairs and work than Lake Fayetteville. She also reported that the Ordinance Review Committee is revisiting all city fees charged. They are reviewing to make sure all fees recoup 75% of the cost to run the facilities.

PRAB Motion:

Mauritson moved to accept staff recommendation of Alternative Revenue Enhancement plan (shown below).

The motion was seconded by Davidson.

The motion was approved 6-0-0 with Mauritson, Bailey, Langsner, Davidson, Harrison, Hill and Marley voting 'yes' and Pawlik-Holmes absent for the vote.

Alternative Revenue Enhancement

		2004 Permits	Fee	Revenue	Proposed Fee	Proposed Revenue
Daily Fishing		6793	\$2	\$13,586	\$3	\$20,379
	Seniors	613	\$1	\$613	\$2	\$1,226
Daily Boating		1810	\$2	\$3,620	\$6	\$10,860
	Seniors	201	\$1	\$201	\$5	\$1,005
Season Fishing		369	\$20	\$7,380	\$30	\$11,070
	Seniors	132	\$15	\$1,980	\$20	\$2,640
Season Boating		183	\$20	\$3,660	\$50	\$9,150
	Seniors	83	\$15	\$1,245	\$40	\$3,320
L. Fay. Stall Rental		24	\$200	\$4,800	\$250	\$6,000
L. Fay. Stall Non-Residential		20	\$260	\$5,200	\$325	\$6,500
L. Seq. Stall		69	\$80	\$5,520	\$100	\$6,900
Total				\$47,805		\$79,050

ORDINANCE NO. 4168

MICROFILMED

AN ORDINANCE AMENDING SECTION 97.070, RECREATIONAL ACTIVITIES AT LAKES FAYETTEVILLE, SEQUOYAH AND WILSON, OF THE CODE OF FAYETTEVILLE, TO INCREASE FEES AND PROVIDE MISCELLANEOUS OTHER REVISIONS REGARDING LAKE USAGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson, of the Code of Fayetteville, is hereby deleted and the following shall be inserted in its stead:

§97.070 Recreational activities at Lakes Fayetteville, Sequoyah and Wilson.

A. Hours. Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided, each lake shall be closed Thanksgiving Day. The boat docks shall be closed on December 24th and shall remain closed through January 14th.

B. Permits for fishing and boating.

1. Permits:

Season Fishing Permit - \$20 per individual for both lakes. (65 & over \$15)
Season Boating Permit- \$20 per individual for both lakes. (65 & over \$15)
Daily Fishing Permits- \$2 per individual for each lake. (65 & over \$1)
Daily Boating/Launching Permits- \$2 per individual for each lake. (65 & over \$1)

2. Misc.

- a. Each person 16 years of age or older is required to purchase a fishing permit for fishing on each lake or any stream within the City owned lake property.
- b. A boating permit applies to the boat rather than the occupants thereof.
- c. All daily permits are only good during the day of purchase.

C. Boat docking. Boat docking shall be permitted at the boat docks at Lake Fayetteville and Lake Sequoyah on a space available basis.

Fees:

Lake Fayetteville- Residents - \$200 annually per boat
Non-Residents-\$260 annually per boat
Lake Sequoyah - \$80 annually per boat.



Page 2

Ordinance No. 4168

June 1, 1999

D. Fishing. All fishing shall be done only from the lake bank or boat. No wading, swimming, or belly boats shall be permitted. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught, however, the Fayetteville Parks and Recreation Division may provide additional requirements necessary to manage the fish population. All persons should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, set lines, limb lines, cast nets, yo-yo's or jug fishing.

E. Boating. A boating permit for each boat must be purchased before its use on the lake. All boats must be docked at the boat landing at lake closing time. No boats except those used by lake employees will be docked at any other location on the lake.

F. Place of entry. All persons are warned to enter the lake for boating or fishing only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution.

G. Use of motors on boats.

1. In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof and shall not be operated in such a manner as to create heavy waves causing undue erosion of the shoreline.

2. No boats shall be permitted within 500 feet of the spillway of Lake Sequoyah.

3. No houseboats, water skiing, or jet skis allowed. Speeding and boat racing is not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.

4. All state laws governing boats must be complied with before using a boat on any City lake. Facilities for docking or landing of boats will be provided, however, the City of Fayetteville, Arkansas, will not be responsible for any damage or theft of boats, motors or equipment left in boats at docks.

Page 3

Ordinance No. 4168

June 1, 1999

H. Picnicking or other recreational activities. Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which is controlled by the City of Fayetteville, Arkansas. Overnight camping is allowed only by special group permit.

I. Committing nuisances. No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the City of Fayetteville, Arkansas, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.

J. Fishing and boating prohibited near intake tower. No one shall climb upon, enter, or fish from the intake towers of the lakes.

K. Fishing on stream below dam. State laws governing fishing below dams shall be applicable on City property. Fishing permits are required to fish in the stream on City property below the dams.

L. Firearms and hunting. No firearms, hunting or trapping will be permitted on City owned property at any time.

M. Use of motor vehicles. No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.

N. Revoking permits. The City of Fayetteville, Arkansas, shall have the right to revoke any permit issued under this ordinance if it is determined that the permittee willfully violated any of the provisions of this ordinance. When a permit is revoked, there will be no refunds.

PASSED AND APPROVED this 1st day of June, 1999.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Heather Woodruff

Heather Woodruff, City Clerk

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

17-May-05
City Council Meeting Date

Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

Amendment to Ordinance 4168, increasing Lake Recreation Fees at Lake Fayetteville and Lake Sequoyah, as well as, assigning the Mayor or his/her designee to review these fees on an annual basis determining the annual permit/rental fees.

n/a

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

n/a

Remaining Balance

n/a

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 4-20-05
Department Director Date

Previous Ordinance or Resolution # 2168

Original Contract Date: _____

[Signature] 4-21-05
City Attorney Date

Original Contract Number: _____

[Signature] 4-25-05
Finance and Internal Service Director Date

Received in City Clerk's Office



[Signature] 4/21/05
Mayor Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Jeremy C. Pate, Director of Current Planning JP

Date: May 20, 2005

Subject: Rezoning for Staggs (RZN 05-1448)

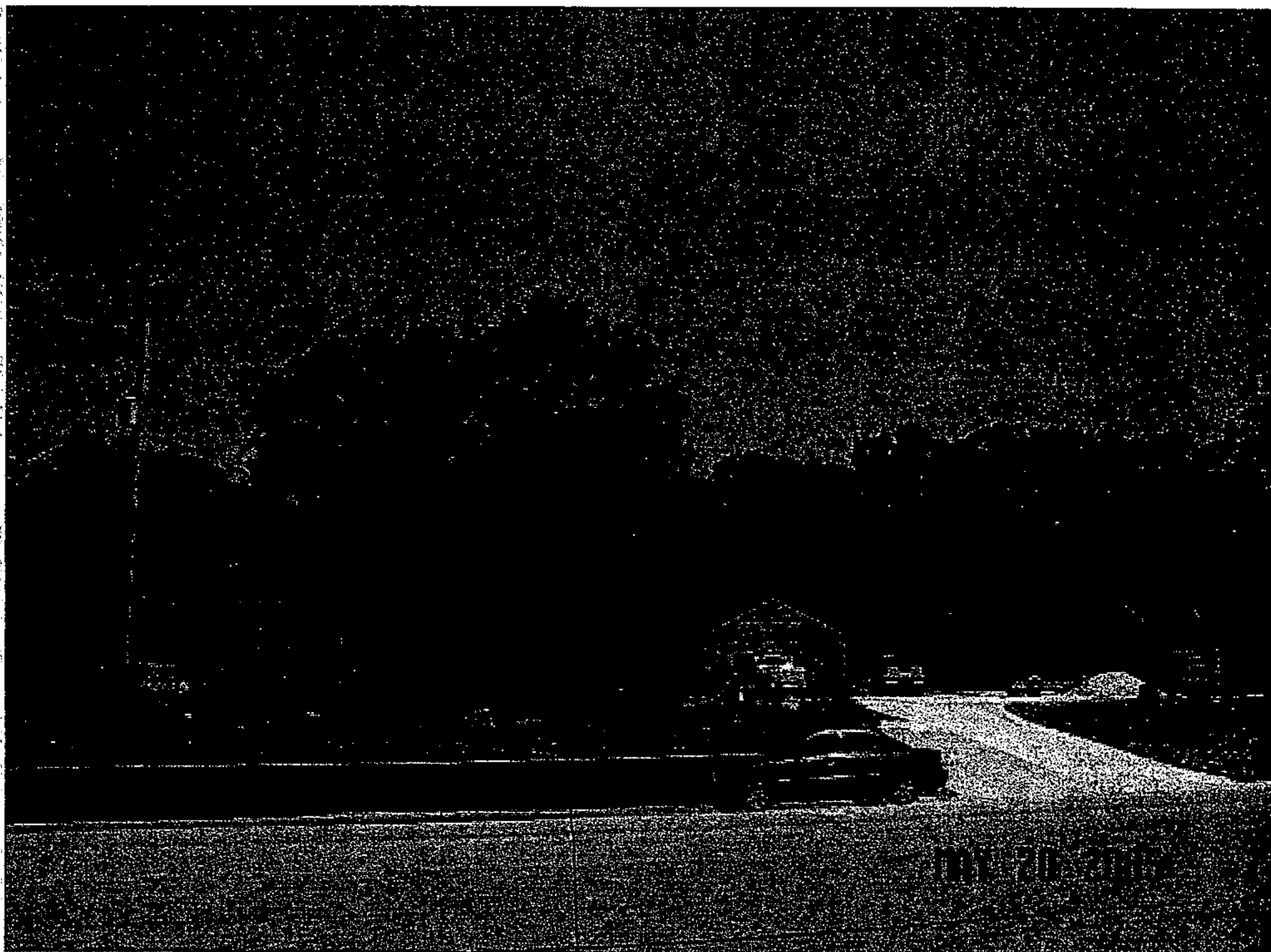
RECOMMENDATION

Planning Staff recommends approval of the subject rezoning request to rezone approximately 0.68 acres of property from RSF-4, Residential Single Family – 4 units per acre, to C-2, Thoroughfare Commercial.

BACKGROUND

The City Council left this item on its second reading at the regular meeting of May 17, 2005. At this meeting, aldermen asked staff if notification of the rezoning action had been sent to all adjoining property owners, including those across adjacent streets (Haddon Lane and Hwy 71B). The Planning Division did notify property owners across the street and all property owners directly adjacent to the subject property. Included is the notice mailed, those published in the newspaper and the names of property owners to whom these mailings were sent.

Additionally, questions regarding the use of this property as a bailbonds office prior to the rezoning request also were raised. Staff would like to take this opportunity to include photos of the property and structure in question, which, as can be noted in the photographs, is not apparently being utilized as a bailbonds office at this time. Property to the south (not a part of this request) is being utilized as such, and has been issued a violation notice by the Planning Division.



STAGGS





DATE: April 11, 2005
TO: Adjoining Property Owners
FROM: Jeremy Pate, Director of Current Planning

The Fayetteville Planning Commission has been asked to review a proposed REZONING adjacent to your property.

The Development is described as follows:

RZN 05-1448: (STAGGS, 678): Submitted by RUSS STAGGS for property located at 2824 S SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately ~~0.68~~ acres. The request is to rezone the subject property to C-2, COMMERCIAL THOROUGHFARE.

Planner: SUZANNE MORGAN

Public hearings for this item include:

Planning Commission Monday, APRIL 25, 2005* 5:30 pm Rm 219 in the City Administration Building at 113 W. Mountain Street.

* Items can be removed from agendas on short notice, so please call the **Planning Division at 575-8267** to verify the item you are interested will be heard as stated above.

Applicant: Russ Staggs
Address: PO Box 485
Higden AR 72067
Phone: 501-825-6500

Representative n/a
Address: Phone:
Fax:

Neighborhood n/a

Assoc.: Phone:

Contact: Email:

Staff Planner Suzanne Morgan Phone: 575-8267

Planning Division 125 W. Mountain Fayetteville, AR 72701 479-575-8267 www.acessfayetteville.org

NOTICE OF PUBLIC HEARINGS

Fayetteville

ARKANSAS

B. 2
RZN 05-1448 (Staggs)
Page 5 of 22

NOTICE IS HEREBY GIVEN PURSUANT TO THE PROVISIONS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE. THE FOLLOWING PETITIONS HAVE BEEN SET FOR A HEARING BEFORE THE SUBDIVISION COMMITTEE IN THE CITY ADMINISTRATION BUILDING, 113 WEST MOUNTAIN STREET, ROOM 219, FAYETTEVILLE, ARKANSAS, ON THURSDAY, APRIL 14, 2005 AT 8:30 AM. SOME OF THESE ITEMS MAY BE APPROVED BY THE SUBDIVISION COMMITTEE. THOSE ITEMS NOT APPROVED WILL BE HEARD BEFORE THE PLANNING COMMISSION ON MONDAY, APRIL 25, 2005 AT 5:30 PM AT THE CITY ADMINISTRATION BUILDING, 113 WEST MOUNTAIN STREET, ROOM 219, FAYETTEVILLE, ARKANSAS.

Old Business:

1. **PPL 05-1408: Preliminary Plat (CHERRY HILLS S/D, 282/243):** Submitted by MCCELLENDON CONSULTING ENGINEERS for property located at THE W SIDE OF HUGHMOUNT RD., N TO LIBERTY LANE. The property is in the Planning Area and contains approximately 75.85 acres. The request is to approve the preliminary plat for a residential subdivision with 200 single family lots proposed. Property Owner: JOHN & JEANNE ARMSTRONG Submitted on behalf of: RIC GRAY Planner: SUZANNE MORGAN

2. **LSD 05-1415: Large Scale Development (FARMINGTON BRANCH CENTER, 595):** Submitted by TOM HENNELLY for property located at HWY 62W, N OF THE OZARK MOUNTAIN SMOKEHOUSE. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 3.35 acres. The request is to approve a large scale commercial development with 22,275 s.f. office space and 88 parking spaces proposed. Property Owner: CLIFF SLINKARD Planner: JEREMY PATE

3. **LSD 04-1380: Large Scale Development (MAIL CO., 678-717):** Submitted by STEVE CLARK for property located at S SCHOOL AVENUE, N OF WHILLOCK STREET. The property is zoned C-2, THOROUGHFARE COMMERCIAL AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 4.02 acres. The request is to approve a 13,000 s.f. mail sorting facility with 31 parking spaces proposed. Property Owner: MAIL CO. Planner: SUZANNE MORGAN

New Business

4. **LSP 05-1465: Lot Split (ISRAEL, 451):** Submitted by CLARK CONSULTING for property located at STARR DRIVE, BETWEEN 009 AND 1011 STARR DRIVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 30.99 acres. The request is to split the subject property into two tracts of 28.95 and 2.04 acres. Property Owner: BEN ISRAEL Planner: JEREMY PATE

5. **LSD 05-1462: Large Scale Development (RIDGEHILL APARTMENTS, 405):** Submitted by N. ARTHUR SCOTT for property located at NW OF GREGG AVENUE AT HOLLY STREET. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 1.68 acres. The request is to approve a residential apartment complex on the subject property with 39 units and 62 bedrooms proposed. Property Owner: BRANDON BARBER SCB INVESTMENTS, LLC Planner: SUZANNE MORGAN

NOTICE IS ALSO GIVEN THAT, PURSUANT TO THE PROVISIONS OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, THE FOLLOWING PETITIONS HAVE BEEN SET FOR A HEARING BEFORE THE PLANNING COMMISSION IN THE CITY ADMINISTRATION BUILDING, 113 WEST MOUNTAIN STREET, ROOM 219, FAYETTEVILLE, ARKANSAS, ON MONDAY, APRIL 25, 2005 AT 5:30 PM.

6. **ANX 05-1451: (LANE, 571):** Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 24.19 acres. The request is to annex the subject property into the City of Fayetteville. Property Owner: FORREST & MODYNE LANE Planner: SUZANNE MORGAN

7. **RZN 05-1462: (LANE, 571):** Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE, N OF 16E AND W OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 30.87 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre. Property Owner: FORREST & MODYNE LANE Planner: SUZANNE MORGAN

8. **RZN 05-1448: (STAGGS, 678):** Submitted by RUSS STAGGS for property located at 282 S SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.34 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. Planner: SUZANNE MORGAN

9. **RZN 05-1449: (PAYNE, 755):** Submitted by RODNEY R. & NANCY K. PAYNE for property located at 1200 W BAILEY DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 4.73 acres. The request is to rezone the subject property to RSF-7, Residential Single Family, 7 units per acre. Planner: JEREMY PATE

10. **RZN 05-1450: (STONEBRIDGE MEADOWS PHASE V, 607):** Submitted by H2 ENGINEERING, INC. for property located at GOFF FARM RD., E OF CRESCENT LAKE S/D & W OF STONEBRIDGE MEADOWS GOLF COURSE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 26.61 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre. Submitted on behalf of: BILL MEADOWS Planner: SUZANNE MORGAN

11. **RZN 05-1480: (BILL EDDY MOTORSPORTS, 402):** Submitted by WILLIAM AND CATHERINE EDDY for property located at 1205 N FUTRALL DRIVE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.00 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial. Property Owner: WILLIAM & CATHERINE EDDY Planner: JEREMY PATE

12. **CUP 05-1466: (ISRAEL, 451):** Submitted by CLARK CONSULTING for property located at STARR DRIVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 30.99 acres. The request is to approve a tandem lot on the subject property. Property Owner: BEN ISRAEL Planner: JEREMY PATE

13. **VAC 05-1435: (ASPEN RIDGE, 522/561):** Submitted by MATT CRAFTON OF CRAFTON TULL & ASSOC. for property located at DUNCAN AVENUE AND ANDERSON PLACE BETWEEN 6TH STREET AND HILL AVENUE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 28.02 acres. The request is to vacate a right-of-way within the subject property. Property Owner: HANK BROYLES Property Owner: HAL FORSYTH Planner: JEREMY PATE

14. **VAC 05-1440: (WAITSMAN, 295):** Submitted by J. JEFF MARTIN for property located at NATCHEZ TRACE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.43 acres. The request is to vacate a 20' drainage easement along the east side of the subject property. Property Owner: BILL WAITSMAN Planner: JEREMY PATE

15. **VAC 05-1453: (ST. JAMES MISSIONARY BAPTIST, 524):** Submitted by STEVE CLARK for property located at SE CORNER OF ROCK AND WILLOW. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 5.20 acres. The request is to approve the vacating of two alleys and an unconstructed street. Property Owner: ST. JAMES CHURCH Planner: JEREMY PATE

16. **VAC 05-1454: (HARGUS, 581):** Submitted by MARLA AND ROBERT HARGUS for property located at 836 S HILL AVENUE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 0.138 acres. The request is to vacate a portion of an alley on the subject property. Planner: SUZANNE MORGAN

17. **VAC 05-1455: (NECESSARY, 99):** Submitted by BUCKLEY BLEW for property located at 3187 E WATERSTONE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.12 acres. The request is to vacate a portion of a utility easement on the subject property. Property Owner: BRIAN NECESSARY Planner: SUZANNE MORGAN

18. **VAC 05-1456: (REINDL, 484):** Submitted by MANDY BUNCH for property located at MEADOW. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 2.15 acres. The request is to vacate two sewer easements on the subject property. Property Owner: REINDL Planner: JEREMY PATE

All interested parties may appear and be heard at the public hearings. A copy of the proposed amendments and other pertinent data are open and available for inspection in the office of City Planning (3267), 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to present petitions, interpretations or TDD for hearing impaired are available for all public hearings; 72 hours notice required. For further information or to request an interpreter, please call 575-8330.

Planning Commission

April 25, 2005

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RZN 05-1448: (STAGGS, 678): Submitted by RUSS STAGGS for property located at 2824 S SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, COMMERCIAL THOROUGHFARE.

Ostner: The next item on our agenda is RZN 05-1448 for Staggs submitted by Russ Staggs for property located at 2824 S. School Avenue. If we could have the staff report please?

Morgan: The subject property consists of Lots 8 and 9 of Grandview Heights Subdivision containing approximately .68 acres. The property is located between School Avenue and Hayden Avenue and is zoned RSF-4. Surrounding properties consist with a mix of single family use as well as commercial and industrial properties. The applicant intends to utilize the existing structure on the property for a bail bonds business. This is classified under a Use Unit 16 which is not allowed in the RSF-4 zoning district as a permitted or Conditional Use. The applicant proposes rezoning the subject property to C-2, Thoroughfare Commercial to allow for a use that is compatible and similar in nature to the surrounding uses. With regard to findings, the Fire Department has reviewed this site and found that the response time is approximately five minutes. The Police have reviewed this particular request and found that the rezoning will not substantially alter the population density nor will it create an undesirable increase on police services. The future land use plan does designate this particular area for community commercial where adjacent to School Avenue. A portion of the property along School Avenue and directly to the north of this subject property is currently zoned C-2. Property to the south is zoned for residential use. Staff finds that the proposed rezoning is consistent with land use planning objectives and policies and is compatible with the adjacent properties in the same zoning district. The proposed zoning is not only compatible with the adjacent land uses but it will also support existing uses such as the County Correctional Facility, which is across the street from this property. With regard to traffic, it is the opinion of the Fayetteville Police Department that the change in zoning will not create an appreciable increase in traffic or traffic danger. Future development with the proposed zoning in this location may increase traffic accessing the adjacent rights of way. However, with regulations in regards to development of commercial property and this property also being adjacent to two streets, there are some abilities for regulations on curb cuts and access to the property. Staff is recommending in favor of this rezoning request and we will take any questions that you may have.

Ostner: Is the applicant present? Please introduce yourself and tell us about your project.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: April 28, 2005

Subject: Rezoning for Staggs (RZN 05-1448)

RECOMMENDATION

Planning Staff recommends approval of the subject rezoning request to rezone approximately 0.68 acres of property from RSF-4, Residential Single Family – 4 units per acre, to C-2, Thoroughfare Commercial.

BACKGROUND

Property description: The subject property consists of lots 8 and 9 of Grandview Heights Subdivision, containing approximately 0.68 acres. The property is located between School Avenue and Haddon Avenue and is zoned RSF-4. There are currently two single-story homes on the property with a common access from School Avenue. Surrounding properties are a mix of single family residential, commercial and industrial uses with adjacent businesses including an auto repair service and the Tyson plant. This area is designated as Community Commercial on the future land use plan.

Proposal: The applicant intends to utilize the existing structures on the property for a bail bond business. Use unit 16, under which bail bonds is located, is not allowed in the RSF-4 zoning district as a permitted or conditional use. The applicant proposes a rezoning of the subject property to C-2, Thoroughfare Commercial, to allow for a use that is compatible and similar in nature to the uses that surround the parcel.

Request: The request is to rezone the property C-2, Thoroughfare Commercial.

DISCUSSION

This item was heard at the regular Planning Commission on April 25, 2005. No public comment was received. The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation in favor of the rezoning to C-2, Thoroughfare Commercial.

BUDGET IMPACT

None.

Left on the second reading 5/17/05

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 05-1448 FOR PROPERTY LOCATED AT 2824 S SCHOOL AVENUE. THE PROPERTY IS ZONED RSF-4, SINGLE FAMILY 4 UNITS/ACRES AND CONTAINS APPROXIMATELY 0.68 ACRES. THE REQUEST IS TO REZONE THE SUBJECT PROPERTY TO C-2, COMMERCIAL THOROUGHFARE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single Family, 4 units, to C-2, Commercial Thoroughfare, as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1448

LOT NUMBERED EIGHT (8), GRANDVIEW HEIGHTS SUBDIVISION, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.
-AND-

A PART OF LOT 9, GRANDVIEW HEIGHTS SUBDIVISION, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET P/K NAIL MARKING THE SOUTHWEST CORNER OF LOT 9, GRANDVIEW HEIGHTS SUBDIVISION, SAID POINT BEING ON THE EAST RIGHT OF WAY LINE OF SOUTH SCHOOL STREET; THENCE ALONG THE WEST LINE OF SAID LOT 9 AND ALONG SAID RIGHT OF WAY LINE NORTH 21 DEGREES 35 MINUTES 00 SECONDS EAST, 100.00 FEET TO A SET REBAR MARKING THE NORTHWEST CORNER OF SAID LOT 9, THENCE LEAVING SAID RIGHT OF WAY LINE AND ALONG THE NORTH LINE OF LOT 9, SOUTH 69 DEGREES 07 MINUTES 01 SECONDS EAST, 150.00 FEET TO AN EXISTING REBAR MARKING THE NORTHEAST CORNER OF SAID LOT 9, SAID POINT BEING ON THE WEST RIGHT OF WAY OF HADDON AVENUE. THENCE ALONG THE EAST LINE OF SAID LOT 9 AND SAID RIGHT OF WAY LINE, SOUTH 21 DEGREES 35 MINUTES 00 SECONDS WEST 98.07 FEET TO A SET REBAR. THENCE LEAVING SAID EAST LINE AND SAID RIGHT OF WAY LINE, NORTH 66 DEGREES 05 MINUTES 29 SECONDS WEST, 47.45 FEET. THENCE NORTH 71 DEGREES 35 MINUTES 35 SECONDS WEST, 102.73 FEET TO THE POINT OF BEGINNING, CONTAINING 14,620.19 SQUARE FEET AND SUBJECT TO ANY EASEMENTS OF RECORD, AS PER A PLAT OF SURVEY BY SATTERFIELD LAND SURVEYORS, P.A., JOB NO. 29-393, DATED 05/18/2003.



PC Meeting of April 25, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: April 15, 2005

RZN 05-1448: (STAGGS, 678): Submitted by RUSS STAGGS for property located at 2824 S SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, COMMERCIAL THOROUGHFARE.

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u>
Date: <u>April 25, 2005</u>	☒ Approved ☐ Denied
	Clark/Graves ² 8-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
Date: <u>May 19, 2005 (1st reading if recommended)</u>	☐ Approved ☐ Denied

BACKGROUND:

Property description: The subject property consists of lots 8 and 9 of Grandview Heights Subdivision, containing approximately 0.68 acres. The property is located between School Avenue and Haddon Avenue and is zoned RSF-4. There are currently two single-story homes on the property with a common access from School Avenue. Surrounding properties are a mix of single family residential, commercial and industrial uses with adjacent businesses including an auto repair service and the Tyson plant.

Proposal: The applicant intends to utilize the existing structures on the property for a bail bond business. Use unit 16, under which bail bonds is located, is not allowed in the RSF-4 zoning district as a permitted or conditional use. The applicant proposes a rezoning of the subject property to C-2, Thoroughfare Commercial, to allow for a use that is compatible and similar in nature to the uses that surround the parcel.

Recommendation: Staff recommends approval of the rezoning request. This area is designated as Community Commercial on the future land use plan, which is consistent with the C-2 zoning district. It is identified on the General Plan 2020 and functions as an area of commercial property that acts as a buffer between industrial and residential uses. The property has direct access to School Avenue, a major thoroughfare. The area adjacent to School Avenue serves as a large commercial area with an existing assortment of residential, shopping, and industrial uses located in close proximity to each other, serving the surrounding community.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Auto Repair Service	C-2, Thoroughfare Commercial
South	Single Family Residential	RSF-4, Res. Single Family – 4 du/acre
East	Single Family Residential	RSF-4, Res. Single Family – 4 du/acre
West	Tyson Plant	I-1, Heavy Commercial & Light Industrial I-2, General Industrial

INFRASTRUCTURE:

Streets: Currently the site has access to South School. Road improvements per AHTD and dedication per the master street plan are required

Surrounding Streets:

North: 26th Street (Local)

South: Peach Street (Local)

East: Haddon Avenue (Local)

West: School Avenue (Principal Arterial)

Water: Public water is adjacent to the site. There is a 12" main along South School. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is adjacent to the site.

Fire: The Fayetteville Fire Department has reviewed the request and has estimated that the response time from Fire Station #1 to the site would be approximately 5 minutes for a distance of 2.1 miles.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

LAND USE PLAN: The Future Land Use Plan designates this site for Community Commercial. Rezoning this property to C-2, Thoroughfare Commercial is consistent with the land use plan for this area and the proposed use is compatible with surrounding properties that are similarly zoned.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is consistent with current land use planning objectives and policies and is compatible with adjacent properties in the same district. The property in question is adjacent to parcels zoned RSF-4 to the east and south, C-2 to the north, and I-1/I-2 to the west. Surrounding properties are primarily industrial or commercial in nature. The lots within Grandview Heights Subdivision adjacent to School Avenue are indicated on the Future Land Use plan for an area higher intensity commercial use. Enforcement of development regulations will alleviate any negative appearance of commercial development along School Avenue and Haddon Avenue by regulating landscaping, access, commercial design standards, etc.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns. The General Plan 2020 defines Community Commercial as "activity areas that primarily serve the residents of the community." The proposed zoning and use would be similar to and compatible with adjacent land uses and support existing use such as the County Correctional Facility.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Future development with the proposed zoning may increase traffic accessing onto adjacent rights-of-ways. At this time, a curb cut exists from the property to School Avenue. Restricting additional curb cuts on School Avenue or closing the existing entrance and constructing a new access from Haddon Avenue may decrease potential traffic conflicts on this major thoroughfare.

Police – It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion will not be created by this rezoning request.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would not substantially alter the population density in the area. Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

Currently the site has access to School Avenue and Haddon Avenue. At the time of future development, these streets may need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.17 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

April 18, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

In reference to **RZN 05-1448: (STAGGS, 674)**: Submitted by RUSS STAGGS, for property located at 2825 S. SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMUKY-4 UNITS/ACRES and contains approximately 0.34 acres. The request is to rezone the subject property to C-2 Thoroughfare Commercial.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Captain William Brown
Fayetteville Police Department

Item 6 on Rezoning Application: Zoning Request Description

- a. Current ownership information. Property is currently owned by Sunset Properties, L.L.C., and there are no known proposed property sales at this time.
- b. Reason for Rezoning change request. To allow development of the tracts for a Bail Bond Business
- c. How the property relates to surrounding properties
This property will continue the emerging trend in the area for the business, the appearance will be the same but with a sign in front of the property and a parking area for the business.
- d. Availability of water and sewer. This Property already water and sewer. There is a 6" sewer line and a 12" water line on the property.

Item 7 on Rezoning Application Checklists:

- a. The proposed zoning is entirely consistent with the land use and zoning plans.
- b. The proposed zoning is justified for opening a new business.
- c. The proposed zoning will not increase traffic.
- d. The proposed zoning will not cause an undesirable increase to the load on public services because water and sewer are already present.
- e. To be in compliance with the city codes to operate a business in the city.

Real Property located at 2824 S School Ave, Fayetteville, AR 72703

THIS "EXHIBIT A" IS EXECUTED ON JUNE 3, 2003.

B. 2
RZN 05-1448 (Staggs)
Page 17 of 22

GRANTOR:

SUNSET PROPERTIES LLC

By: 
GARY EDWARDS, Manager of Sunset Properties
LLC

LASER PRO Lending, Ver. 5.21.20.003 Copr. Harford Financial Solutions, Inc. 1997, 2003. All Rights Reserved. - AR JHAPTSXLPWBRCLVIG03.PC TR-045700010066 PR-8903

LEGAL DESCRIPTION:

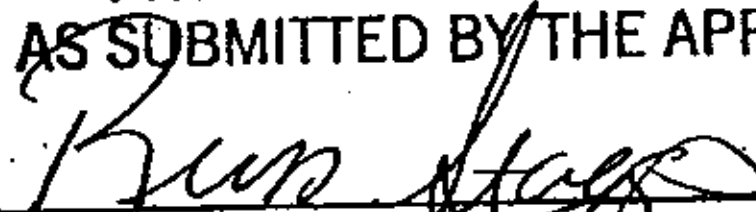
LOT NUMBERED EIGHT (8), GRANDVIEW HEIGHTS SUBDIVISION, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

-AND-

PART OF LOT 9, GRANDVIEW HEIGHTS SUBDIVISION, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A SET P/K NAIL MARKING THE SOUTHWEST CORNER OF LOT 9, GRANDVIEW HEIGHTS SUBDIVISION, SAID POINT BEING ON THE EAST RIGHT OF WAY LINE OF SOUTH SCHOOL STREET; THENCE ALONG THE WEST LINE OF SAID LOT 9 AND ALONG SAID RIGHT OF WAY LINE NORTH 21 DEGREES 35 MINUTES 00 SECONDS EAST, 100.00 FEET TO A SET REBAR MARKING THE NORTHWEST CORNER OF SAID LOT 9, THENCE LEAVING SAID RIGHT OF WAY LINE AND ALONG THE NORTH LINE OF LOT 9, SOUTH 69 DEGREES 07 MINUTES 01 SECONDS EAST, 150.00 FEET TO AN EXISTING REBAR MARKING THE NORTHEAST CORNER OF SAID LOT 9, SAID POINT BEING ON THE WEST RIGHT OF WAY OF HADDON AVENUE. THENCE ALONG THE EAST LINE OF SAID LOT 9 AND SAID RIGHT OF WAY LINE, SOUTH 21 DEGREES 35 MINUTES 00 SECONDS WEST 98.07 FEET TO A SET REBAR. THENCE LEAVING SAID EAST LINE AND SAID RIGHT OF WAY LINE, NORTH 66 DEGREES 05 MINUTES 29 SECONDS WEST, 47.45 FEET. THENCE NORTH 71 DEGREES 35 MINUTES 35 SECONDS WEST, 102.73 FEET TO THE POINT OF BEGINNING, CONTAINING 14,620.19 SQUARE FEET AND SUBJECT TO ANY EASEMENTS OF RECORD, AS PER A PLAT OF SURVEY BY SATTERFIELD LAND SURVEYORS, P.A., JOB NO. 29-393, DATED 05/18/2003.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

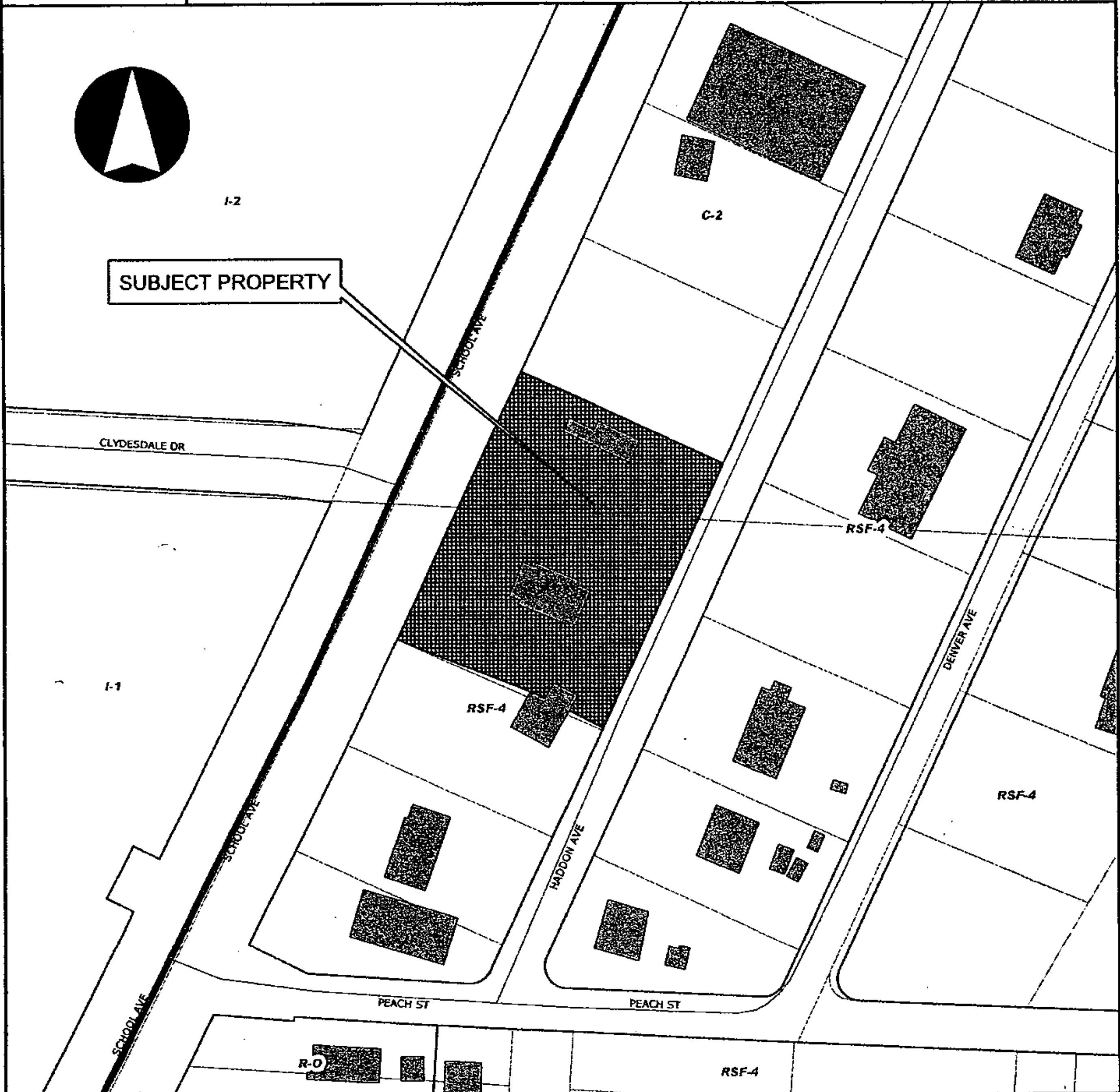
Parcel closes
Submitted as:
RZN05-1448
4/7/05
TS

...by Lender's acquisition of any
...any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.
Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written

RZN05-1448

Close Up View

STAGGS



Overview



Legend

RZN05-1448

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

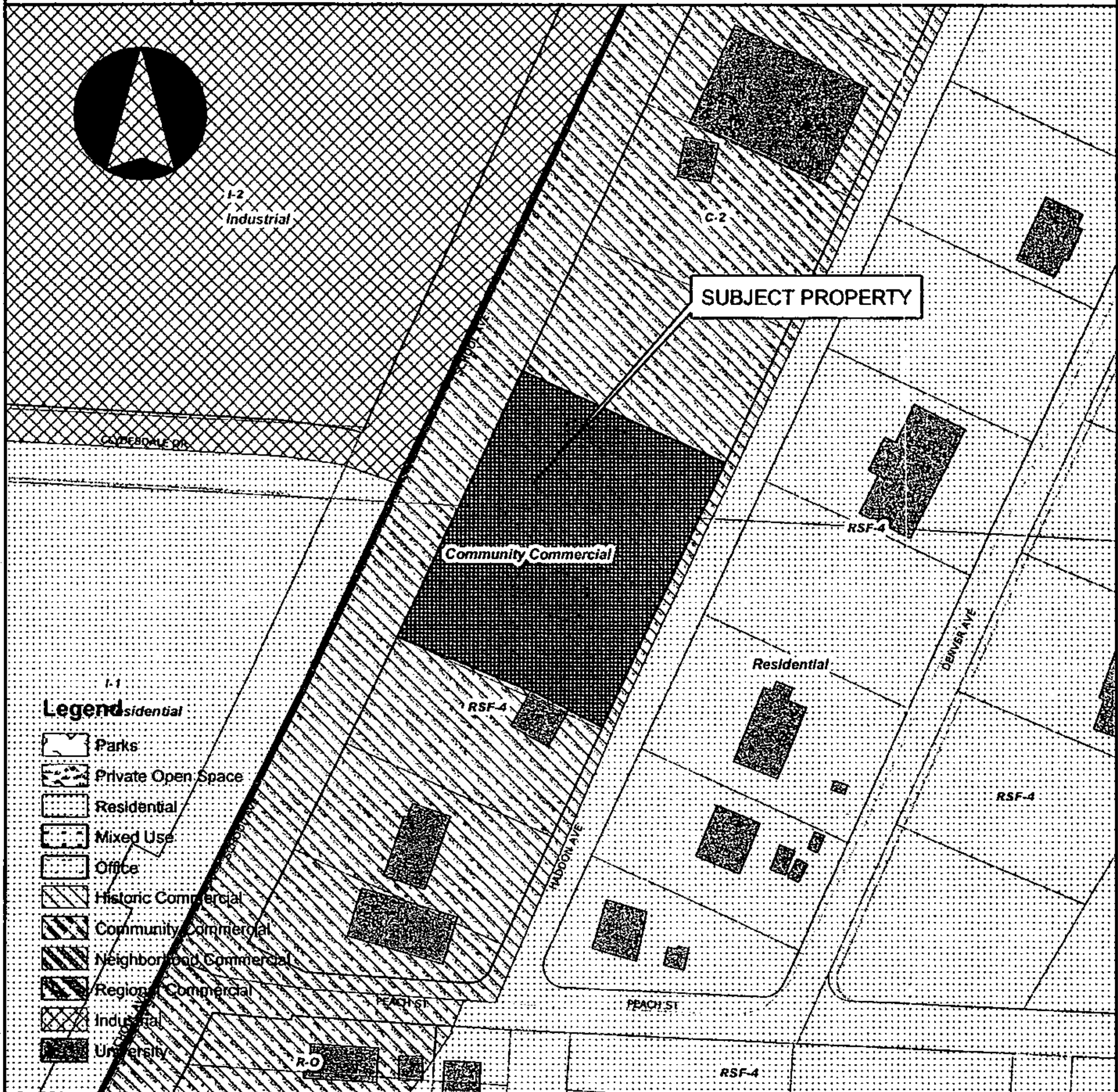
Outside City



RZN05-1448

Future Land Use

STAGGS



Overview



Legend Subject Property

RZN05-1448

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
Outside City

Master Street Plan

Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector



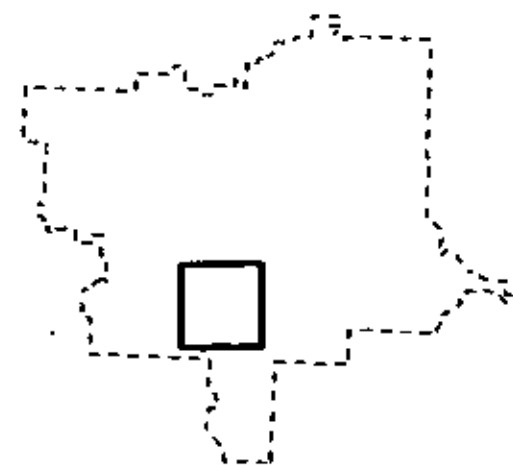
RZN05-1448

One Mile View

STAGGS



Overview



Legend

Subject Property

RZN05-1448

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

B. 2
RZN 05-1448 (Staggs)
Page 21 of 22

17-May-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1448: STAGGS, 678): Submitted by RUSS STAGGS for property located at 2824 S. SCHOOL AVENUE. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately .68 Acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-2-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

5-2-02

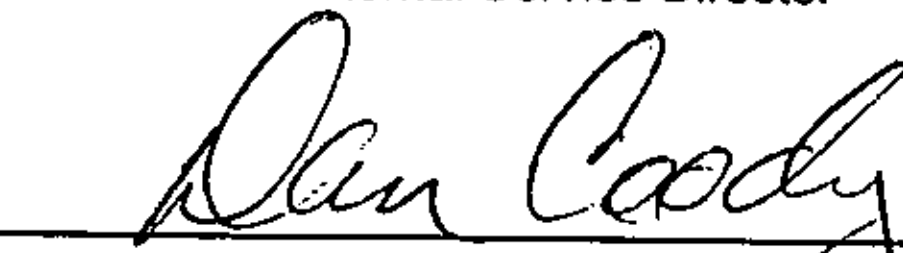

Finance and Internal Service Director

5-3-05
Date

Received in City Clerk's Office



aw


Mayor

5/4/05
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ✂

Date: May 20, 2005

Subject: Annexation for Lane (ANX 05-1451)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Lane, a 24.191-acre tract located north of Huntsville Road. This action will incorporate the 24.191-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains 24.191-acres owned by the Lanes. It is located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision in southeast Fayetteville. At this time, the property is currently used for pasture with one single family home located on the property. It is within the Planning Area and adjacent to the City limits along the southern property line and one-third of the western property line where it abuts Deerfield Place. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river traverses the property to the west.

Annexation of the property will not create an island of unincorporated property, and extends the city limits north to the West Fork of the White River, a natural barrier. Water and sewer service shall be extended to the property at the time of development. Improvements to the existing infrastructure adjacent to this site and construction of streets in compliance with the Master Street Plan will be required at the time of development. City fire and police currently service the adjoining neighborhoods.

The applicant requested annexation of the property into the City of Fayetteville. A rezoning request has also been submitted, for RSF-4 zoning. The applicant intends to develop the property for residential use within the City of Fayetteville.

Staff recommended approval of the proposed annexation. No public comment was received for this item.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommend of approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 05-1451 FOR PROPERTY LOCATED AT THE END OF COUNTRY RIDGE ROAD, NORTH OF HWY 16 EAST AND WEST OF DEERFIELD WAY CONTAINING APPROXIMATELY 24.19 ACRES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. One.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 05-1451

A PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W1/4) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW1/4), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUTNY, ARKANSAS.

THENCE N02°40'06"E 1441.44 FEET;

THENCE N62°08'56"E 246.16 FEET;

THENCE N53°32'58"E 213.11 FEET TO THE EAST BOUNDARY OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 20;

THENCE S02°32'24"W 664.64 FEET TO A POINT ON THE EAST BOUNDARY OF SAID NW1/4 OF THE NW1/4;

THENCE S87°16'57"E 448.50 FEET;

THENCE S02°41'09"W 1031.51 FEET TO THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY;

THENCE ALONG SAID CITY LIMITS BOUNDARY N87°38'06"W 827.08 FEET TO THE POINT OF BEGINNING, CONTAINING 24.191 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.



PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 4, 2005

ANX 05-1451: (LANE, 571): Submitted by MEL MILHOLLAND for property located at at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 24.191 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: FORREST & MODYNE LANE

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>May 09, 2005</u>	Clark/Allen ² 8-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>June 07, 2005 (1st reading if recommended)</u>	

BACKGROUND:

Property description: The subject property contains 24.191-acres owned by the Lanes. It is located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision in southeast Fayetteville. At this time, the property is currently used for pasture with one single family home located on the property. It is within the Planning Area and adjacent to the City limits along the southern property line and one-third of the western property line where it abuts Deerfield Place. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river traverses the property to the west.

Proposal: The applicant proposes annexation of 24.191 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the finding herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Vacant/Pasture	C-1, Neighborhood Commercial
East	Residential Single Family Vacant/Pasture	RSF-4, Res. Single Family – 4 units/acre Planning Area
West	One Single Family Home; pasture	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to East Huntsville Road. Road improvements per AHTD and dedication per the master street plan are required.

Surrounding Master Street Plan Streets:

South: Huntsville Rd (Principal Arterial)

East: Mally Wagon (Collector), Country Ridge and Deerfield Way (Local)

Water: Public water is adjacent to the site. There is an 8" main along East Huntsville Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system.

Sewer: The site is near sanitary sewer mains. A short off-site sewer main extension may be required to serve this development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 4.3 miles from the Fire Station #5. Response time to the property at maximum build-out is projected at approximately 9.5 minutes with 28 annual calls for service. This does not take into account the decreased response time for the future Fire Station at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island of unincorporated property and does not exacerbate problems created by the extension of peninsulas. In the 1960's, the City of Fayetteville annexed a peninsula of property to incorporate Lake Sequoyah, a primary water source, within the city limits. Since this time, the City has annexed several properties north and south of the 600' Huntsville corridor. The proposed annexation does not extend further north than the surrounding city boundaries. In order to decrease problems associated with emergency response and public services in the area, there are areas that have been identified as more desirable for annexation. Staff has worked with the applicant to coordinate with an adjacent property owner to bring in property that creates a more desirable city limit boundary. Therefore, staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south and east along a portion of the property's eastern-most border.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and located adjacent to Deerfield Place Subdivision. There are several other subdivisions north and south of Huntsville Road further west of the subject property. Structures on the subject property consist of one single family dwelling. The property does not consist of defined subdivisions or neighborhoods; however, future development plans include residential development of the property. Annexation of the property would allow for Planning Commission review of development in accordance with City standards, and would require the same standards of development as the adjacent properties already within the city limits.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels. The northern boundary of the annexation follows a natural corridor created by the White River. There are no anticipated or planned crossings of the river in this area, which creates a natural boundary for development.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 9 minutes for fire protection from Fire Station #5. Response times are anticipated to be reduced with the construction of a new fire station on Huntsville Road at the Tyson Plant. Additionally, the City's Fire Department currently responds to calls much further west and north of this property, with much higher response times. Extension of water and sewer lines will occur at the time of development to aid in the improvement of services.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture land. Tree canopy is concentrated along the west and north property lines within the riparian corridor of the West Fork of the White River. This river acts as a natural barrier from this property to the north. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property. Development outside the city does not allow for the requirement of parks, open space or tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions further east of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas. The subject property is not being served by city utilities at this time.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. At this time, the property is agricultural in nature.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City, though it has been discussed as desirable for annexation in past task force meetings. It is located adjacent to an extension of City property along Huntsville Road. To expand this area north to the river will create a more appropriate City boundary and allow for development to occur under city guidelines. Additional property to the west is currently under consideration for annexation as well.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owner requests annexation and requests to rezone this property RSF-4, Residential single family - 4 units/acre. Additionally, the applicant requests to rezone 6.68 acres located south of the subject property to RSF-4. This property is currently within the City and zoned C-1.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of 24.191 acres owned by the Lanes. Two adjacent property owners to the west have also received an Order of Annexation from the County and have submitted a request for annexation of approximately 30 acres. The annexation of all properties will incorporate a larger area into the City and create a more acceptable boundary, with the West Fork of the White River a natural boundary to the north. As additional petitions of annexation are submitted, the annexation of additional property to create a city boundary which follows the existing natural barriers (i.e. the riparian corridors) and the existing streets will create an even more desirable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 24.191 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.

Fayetteville Fire Department Service Delivery Impact: Zoning Review November 30, 2004										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX05-1451	Lane, 571	YES	24.19	5	4.3 miles	9 minutes	9.5 Minutes	0	0	0
RZN 05-1452	Lane, 571		30.87	5	4.3 miles	9 minutes	9.5 minutes	28	11	17
RZN 05-1448	Stagg, 678		0.34	1	2.1 miles	5 minutes	5 minutes	0	0	0
RZN 05-1449	Payne, 755		4.73	1	3.8 miles	7 minutes	7 minutes	8	3	5
RZN 05-1450	Stonebridge		26.61	5	3.4 miles	7 minutes	7 minutes	24	9	15
RZN 05-1480	Bill Eddy Mot		2	7	1.2 miles	3 minutes	3 minutes	0	0	0

From Future Fire Station #3, THE
ANTICIPATED RESPONSE TIME IS 5-6 MINUTES.

April 18, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 05-1451 (LANE, 571)**: submitted by MEL HOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. This property is in the Planning Area and contains approximately 24.19. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to **RZN 05-1451 (LANE, 571)**: submitted by MEL HOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. This property is in the Planning Area and contains approximately 30.87 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acres.

It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 120 new homes will increase the traffic on an already congested arterial street, (Huntsville Road).

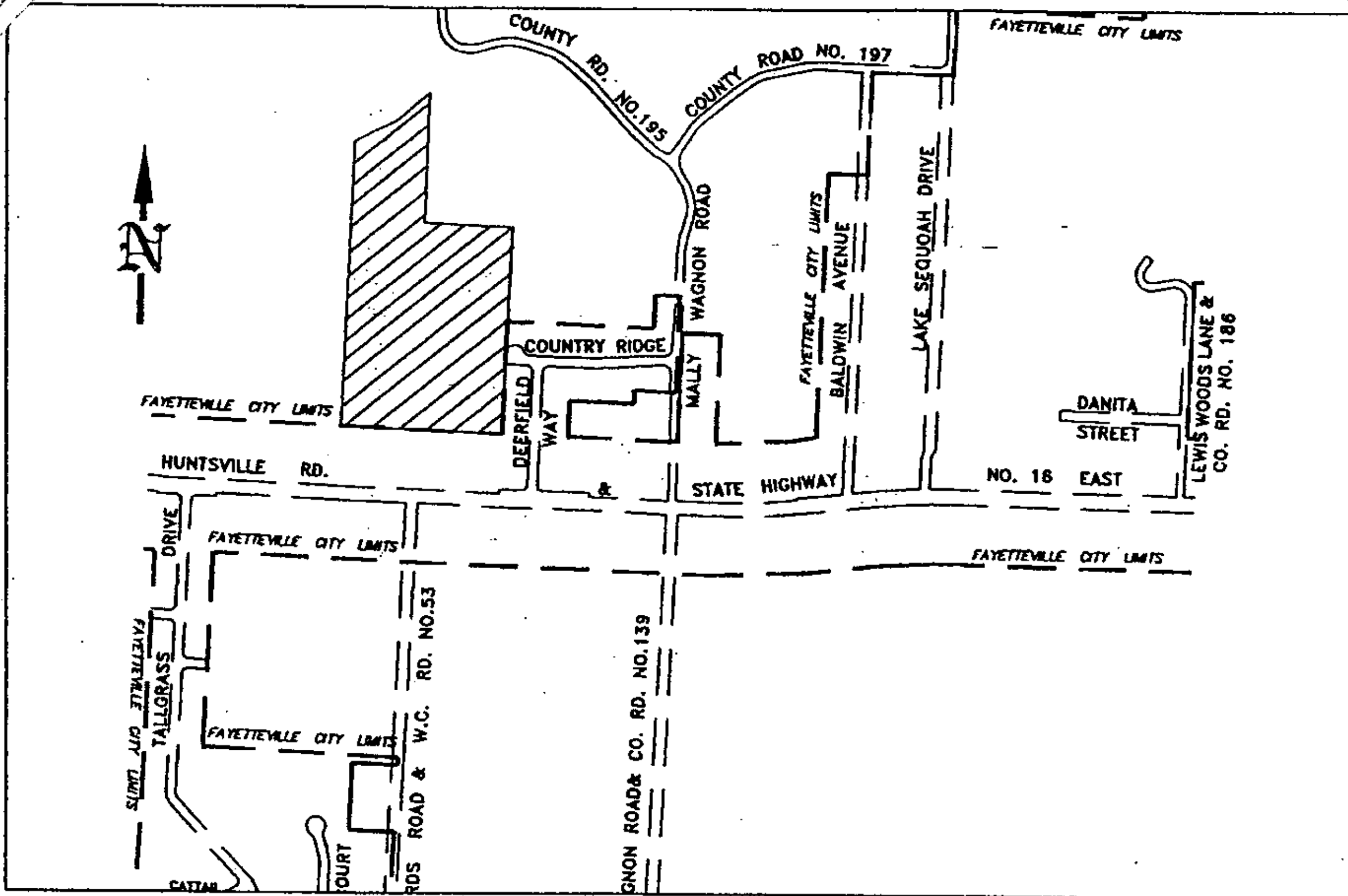
Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Captain William Brown
Fayetteville Police Department

EXHIBIT "A"

C. 1
ANX 05-1451 (Lane)
Page 14 of 28



ANNEXATION VICINITY MAP E-745

ANNEXATION DESCRIPTION:

A PART OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS.

THENCE N02°40'06"E 1441.44 FEET;

THENCE N62°08'56"E 246.16 FEET;

THENCE N53°32'58"E 213.11 FEET TO THE EAST BOUNDARY OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SAID SECTION 20;

THENCE S02°32'24"W 664.64 FEET TO A POINT ON THE EAST BOUNDARY OF SAID NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$;

THENCE S87°16'57"E 448.50 FEET;

THENCE S02°41'09"W 1031.51 FEET TO THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY;

THENCE ALONG SAID CITY LIMITS BOUNDARY N87°38'06"W 827.08 FEET TO THE POINT OF BEGINNING, CONTAINING 24.191 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

OWNER:

EXHIBIT
PROPERTY TO BE
FORREST E. LANE (HUSBAND)

DATE:

3/17/05

OWNER:

L. Modyne Lane
L. MODYNE LANE (WIFE)

DATE:

3/17/05

Applicant's

4/7/05
TS

Submitted as
ANX 05-1451

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS

NO. _____

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

The Petitioners, Forrest E. Lane and Modyne L. Lane, hereby submit their Petition to annex certain real property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

1. That Petitioners own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and said Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.
2. The Petitioners name Melvin Milholland, Clint McDonald, and James Atwood, Attorney at Law, P.A. as the persons authorized to act on their behalf with respect to this Petition.
3. The Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the Real Property into the City of Fayetteville.
4. A true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the Plat Map, Exhibit "A", attached hereto.
5. The Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioners state that they will do

any and all legal acts necessary to accomplish the objective set forth herein.

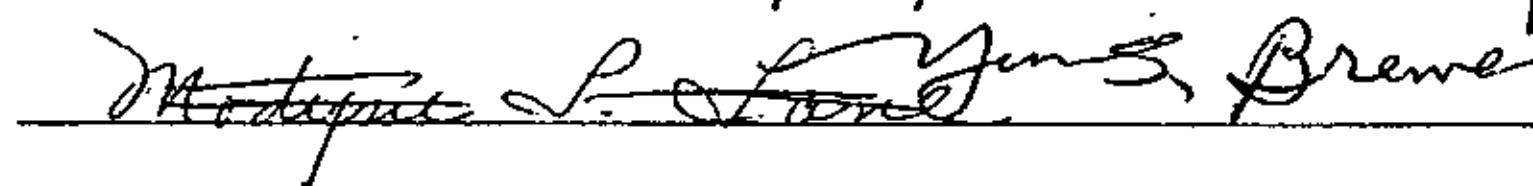
THEREFORE, Petitioners respectfully pray that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described Real Property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully executed this 3 day of February, 2005.

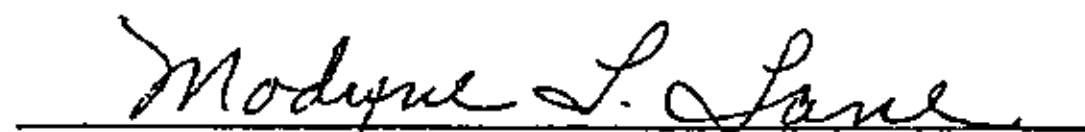

Forrest E. Lane

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 3rd day of February, 2005.

My Commission Expires: 3/15/2005

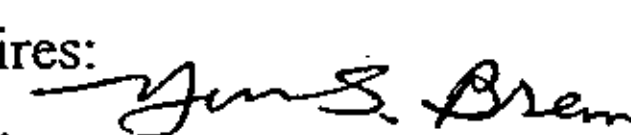

Yun S. Brewer

OFFICIAL SEAL
YUN S. BREWER
Notary Public Arkansas
Washington County
Expires 03/15/2005


Modyne L. Lane

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 3rd day of February, 2005.

My Commission Expires:

3/15/2005

Yun S. Brewer

OFFICIAL SEAL
YUN S. BREWER
Notary Public Arkansas
Washington County
Expires 03/15/2005

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. CC2005-2

2005 MAR 11 AM 10 05
JAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

FILED

ORDER OF ANNEXATION

Now on this 11th day of March, 2005, this cause comes on to be heard, the Petitioners, Forrest E. Lane and Modyne L. Lane, who are represented by the Engineer of Record, Melvin Millholland, Clint McDonald, and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 3rd day of February, 2005 at which time this Court fixed the 11th day of March, 2005, at 10:00a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 11th day of March, 2005.

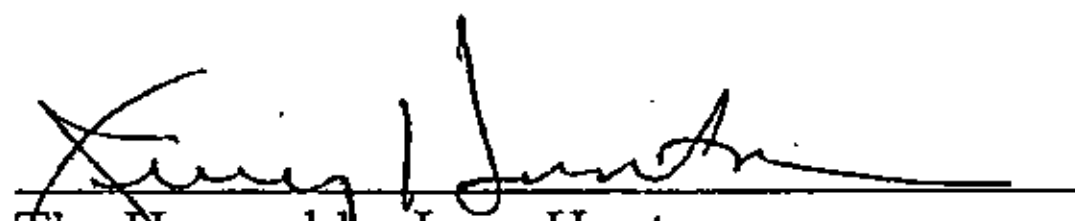
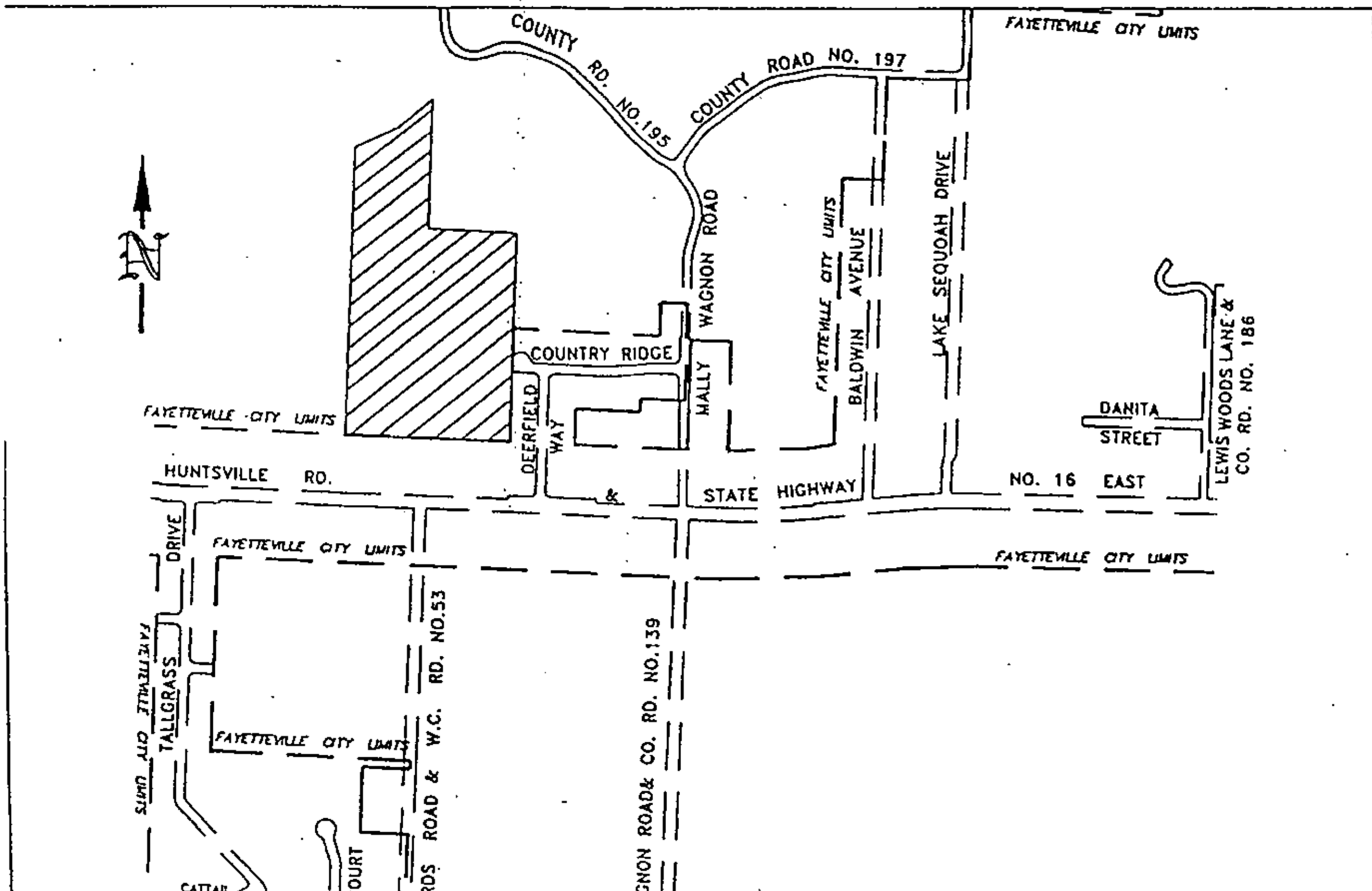

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT "A"

C. 1
ANX 05-1451 (Lane)
Page 19 of 28



ANNEXATION VICINITY MAP E-745

ANNEXATION DESCRIPTION:

A PART OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS.

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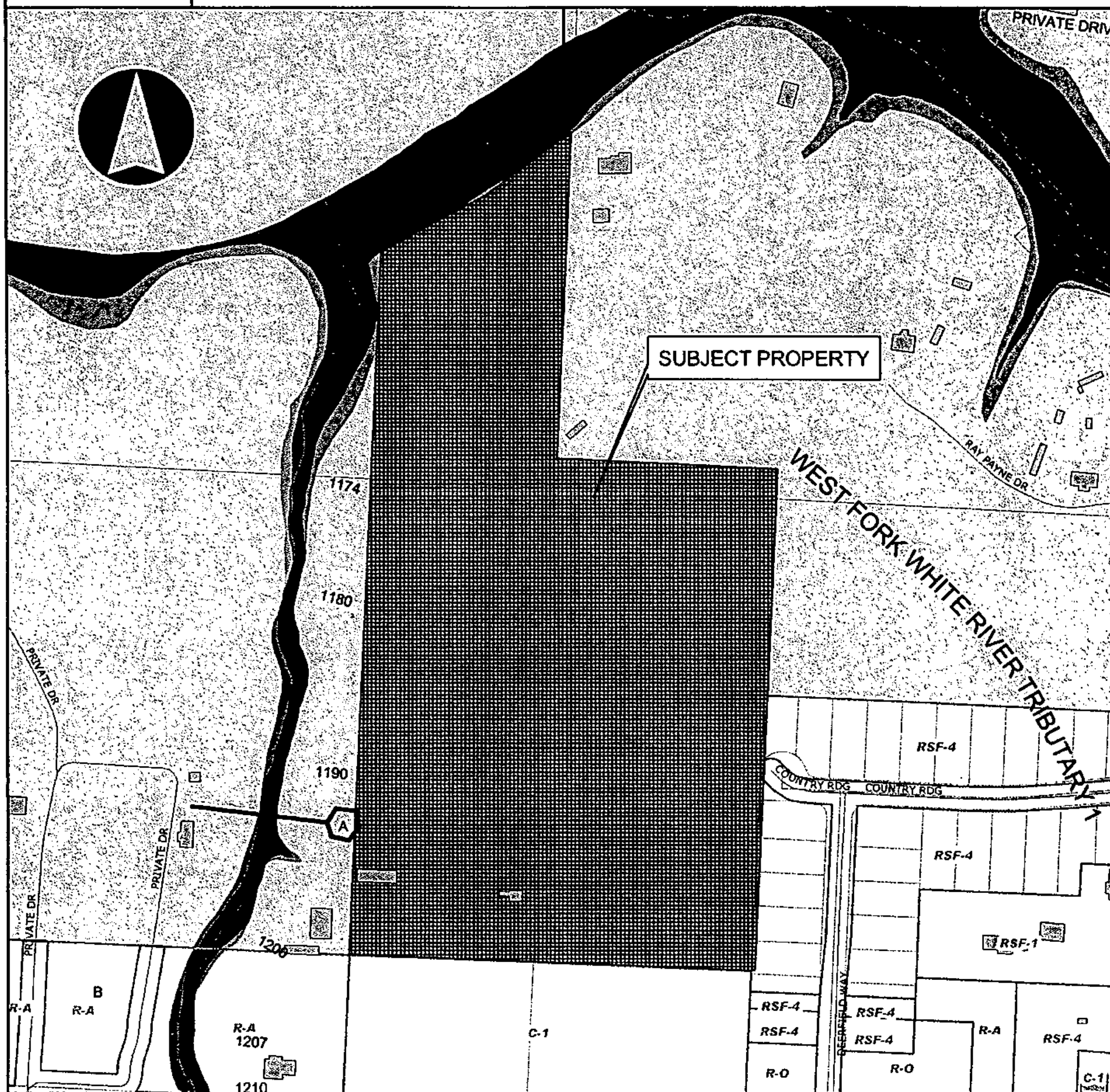
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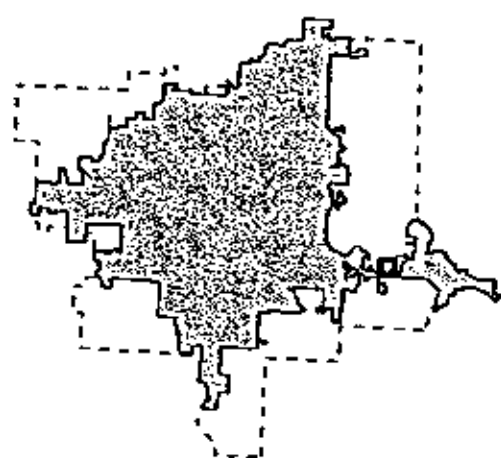
ANX05-1451

Close Up View

LANE



Overview



Legend

ANX05-1451

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

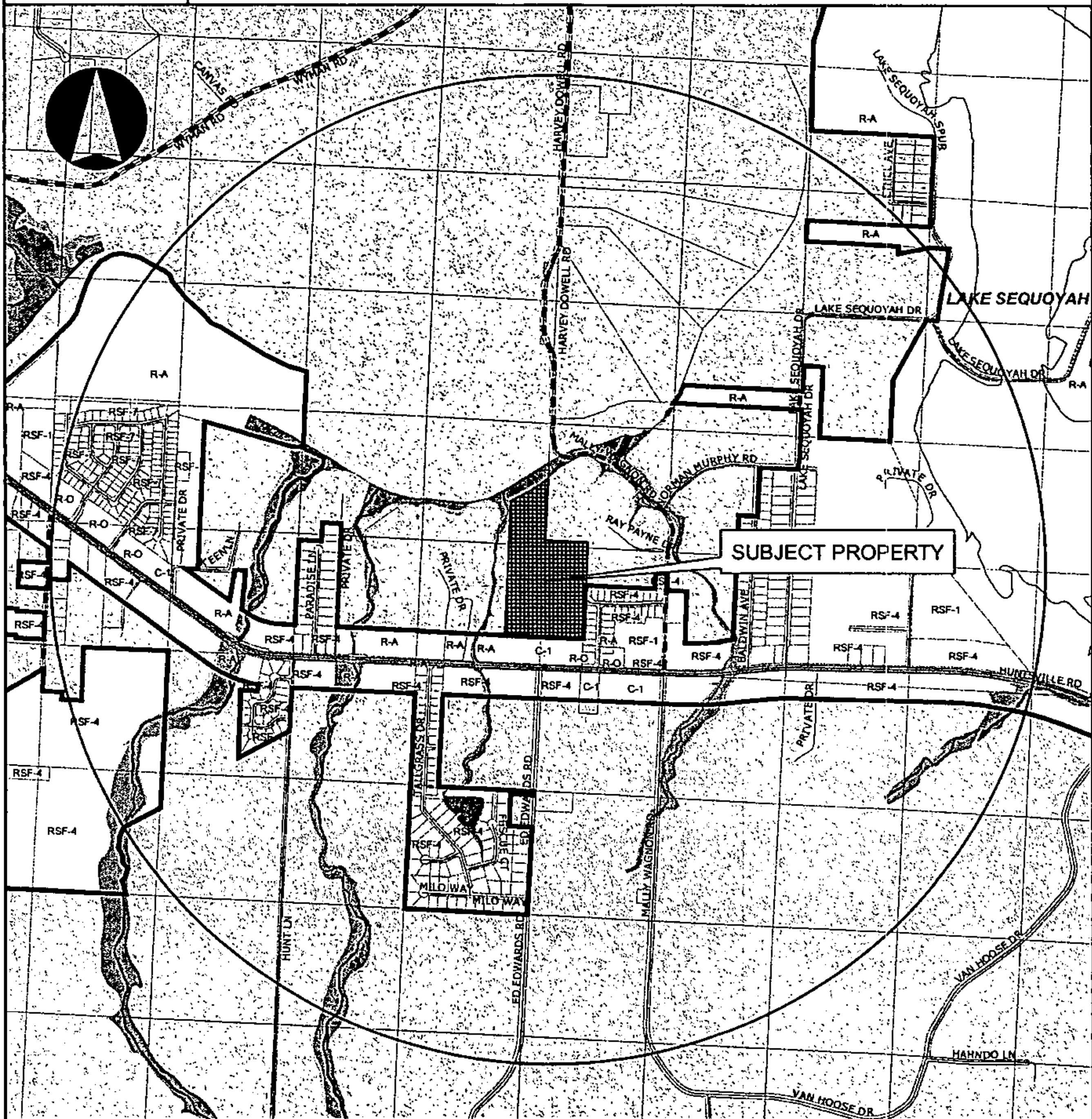
Outside City



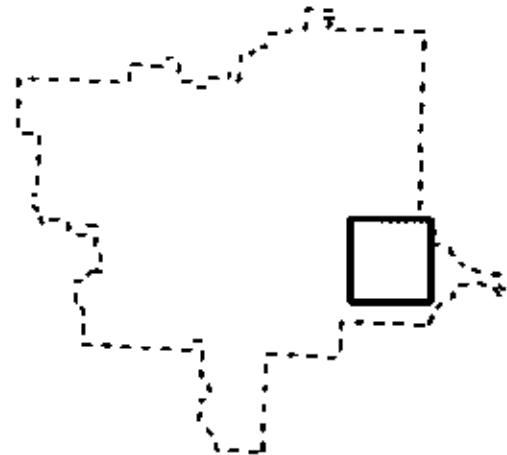
ANX05-1451

LANE

One Mile View



Overview



Legend

Subject Property
 ANX05-1451

Boundary

Planning Area
 Overlay District
 Outside City

Master Street Plan

Master Street Plan
 Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 0.1 0.2 0.4 0.6 0.8
 Miles

Planning Commission

May 9, 2005

Page 53

ANX 05-1451: (LANE, 571): Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 24.191 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 05-1452: (LANE, 571): Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE, N OF 16E AND W OF DEERFIELD WAY. The property is zoned R-A, Residential Agricultural, and C-1, Neighborhood Commercial and contains approximately 30.872 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Ostner: The next item on our agenda is ANX 05-1451 and RZN 05-1452 for Lane submitted by Mel Milholland for property located at the end of Country Ridge Road north of Hwy. 16 East and west of Deerfield Way. If we could have the staff report please.

Morgan: This property contains 24.191 acres. It is owned by the Lanes located north of Huntsville Road north of the existing city property line which is 300' from the street. The property is also adjacent to the city limits to the east where it adjoins Deerfield Way Subdivision. At this time the property is currently used for pasture with one single family home located on the property and it is within the Planning Area at this time adjacent to the city limits. At this time the applicant is requesting annexation and expects future development of this property for single family use. The General Plan 2020 identifies the portion of the property within the Planning Area as residential and all city departments have reviewed this application for annexation as well as the accompanying request for rezoning this property. Fire reports that this property is located approximately 9 ½ minutes from Fire Station #5. This does not however, take into account the decreased response time for the future fire station at the Tyson complex on Huntsville Road, which should be much closer. It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter population density and thereby increase the load on these public services. Annexation of this property will not create an island of unincorporated area and does not exasperate problems created by a peninsula. In the 1960's the City of Fayetteville annexed a large peninsula of property to incorporate Lake Sequoyah, which is east of this property. It is a primary water source within the City of Fayetteville. Thus, the motive to annex this property. Since this time, the city has annexed several properties north and south of this 600' Huntsville corridor. This property is one of those adjacent to Deerfield Path Subdivision. Staff finds that the boundary that would be created by annexation of this property will become more desirable city limits. It is adjacent to the West Fork of the White River to the north and it is adjacent to two properties which are further on the agenda and will thereby create a much larger area of annexation. By annexation of this property the city will ensure that

appropriate development and preservation of existing natural features such as tree preservation along the riparian corridor will be taken into account with development. Staff finds that annexation of this property will be beneficial to the city and create an appropriate boundary. The rezoning request is for 30.872 acres. The reason that this is different than the area that is requested for annexation is because the Lanes do own property that is within the city within that 300' city boundary adjacent to Huntsville. Therefore, the rezoning request includes additional acreage. At this time they are requesting to rezone the property to RSF-4 from R-A, if the annexation requested is approved, and C-1. The current property within the city limits is zoned C-1. The General Plan 2020 reflects that zoning for neighborhood commercial. Police have reported that the rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. At this time staff is recommending the annexation but is not requesting in favor of the rezoning request. This is due to the fact that the applicant is wanting to rezone that C-1 property to RSF-4. Staff supports RSF-4 zoning in this area, it is compatible with the other single family residential properties surrounding this. We feel that a policy decision was made to create commercial property in this area to serve the surrounding homes. The nearest commercial node is the intersection of Crossover and Huntsville and we believe that preservation of this C-1 area is going to be beneficial for the neighborhood. Therefore, we are recommending for Annexation yet for denial of the requested Rezoning.

Ostner: Is the applicant present? If you could please introduce yourself and give us your presentation.

Milholland: I'm Melvin Milholland with Milholland Engineering representing the Lanes in these two requests. I assume that we are looking at the annexation or should I speak to both parts?

Ostner: We are going to discuss both items and are going to vote independently.

Milholland: First, if I could, the third line of the background says that this property is currently used as pasture and it is not. It has been a commercial blueberry farm for 20 some odd years. I think this may have got misplaced by staff somewhere else but it is not pasture, it is actually a commercial blueberry farm. Just for correction purposes, on the fifth line it says the western property line of this property abuts Deerfield, it is actually the eastern boundary of this property that abuts Deerfield. In the handout, the last two maps shows the annexation in a grid and also the rezoning. If you look directly below this grid you will see that the C-2 for this commercial blueberry farm just to the north side of Hwy. 16 but if you look across the south side of the road where Ed Edwards Road, the county road, comes in

there, there is RSF-4 across the road. In your table on page two it shows on the south side of this being C-1. It is RSF-4 not C-1.

Ostner: That table is correct because it is the land south of the annexation proposal which is C-1, also your property I believe.

Milholland: Ok, it has C-2 on the rezoning table.

Morgan: The rezoning table is incorrect. That should be RSF-4. To the southeast there is C-1 property but to the south it is RSF-4.

Milholland: I guess my point is that across the road from this project it is not C-1 zoning. Actually, 867' from the southeast corner of this property over to Mally Wagon Road there is a four way intersection there in which they had a store named Hot Wheels and a Car Wash, which that business has been shut down for quite some time unless it has recently opened back up. I guess my point is C-2 on the south side that exists, I have always understood this but there had been a commercial blueberry business there and when that was annexed from Elkins somewhere along the line it was changed over to C-1. I am assuming that could have been for the blueberry farm because it was a commercial business. We feel that that is not a desirable location to have C-1 on one side of the road when there is only 800 some feet from a major intersection where commercial can be accessed from all directions. Our feeling is a good access should be at a four way intersection that is already there and probably have a red light there one of these days. Presently and in the past there has not been sufficient traffic to support Hot Wheels nor the Car Wash. Back the other direction, there are other businesses between there and the Crossover Road intersection that have struggled to maintain business. Even the building on the south side of Intersection of Hwy. 265 and Hwy. 16, half of that building is vacant and has not been able to maintain a commercial business. We would like to propose that the Annexation take place and that the Rezoning be as requested for all RSF-4. We feel like that is the best use of this land at this point. Maybe 10 or 15 years down the road and there is a major intersection 800' down the road to the east will be appropriate for some type of business that will survive. Right now it will not survive, has not survived and we don't feel like it will. Thank you very much.

Ostner: At this point we will take public comment on both the Annexation request, ANX 05-1451 and RZN 05-1452 if anyone from the public would like to speak to these issues please step forward. Seeing none, I will close it to the public comment session and bring it back to the Commission.

Trumbo: The C-1 portion, how deep is that? The applicant indicated it is 800' of frontage.

- Pate: I'm not aware. I believe it is about six acres of C-1 property.
- Williams: It is probably just 300' from the other side where we did the annexation all the way out.
- Milholland: There are some other things relative to that. The Master Street Plan on that 300' into that would be a four lane highway in the future so it would take a strip of land out of that 300'.
- Ostner: Staff, on the rezoning request on page 12.2 I am reading that the Fayetteville Police Department says this rezoning will substantially alter the population and will create an undesirable increase on police services. Can you elaborate?
- Pate: With their calculations, as well as what we do, they take the maximum density and based on their findings of fact, I'm not sure what all service numbers that they utilize to make this call, their finding, which we agree with, will substantially alter population density. Honestly, it might not because there is no zoning in the county. It could be similarly developed with multi family development. Potentially if it were in the city and not zoned agriculturally it would substantially increase the responsibility of the Fayetteville Police Department to respond to that area if it were in the city. We are citing the potential creation of 120 homes, 2.6 persons per home would be a potential maximum increase of about 312 persons on that particular piece of property. That is just a rough calculation. However, most of these developments do not develop at four units per acre but that is what they are requesting and therefore, that is why we calculate those numbers as such. I'm not able to elaborate much more than what you have been given in your packet.
- Ostner: From my logic it is just too many people, too close together too far out it would seem. Police calls would have to go too far to handle it adequately it would seem.
- Pate: I would mention that there are hundreds of acres of property that the Police Department does have to serve all around this. All around Lake Sequoyah, those are service areas that the Police Department does respond to currently quite a ways east of this property. Those properties could be developed currently without Rezoning or a potential Annexation request. They have not in the last 30 or 40 years but areas of them have, Deerfield Way, the property directly to the east off of Lake Sequoyah Drive, there are other developments in this area as well.
- Ostner: I appreciate the Police Department being frank and forthright with us and giving us information that we need.

Planning Commission
May 9, 2005
Page 57

Clark: Jeremy, if you could put on your fortune teller hat, when is the fire station on Huntsville Road projected to be finished? I read this and fire response time is nine minutes. That is clean up detail at that point and that troubles me.

Pate: I'm sorry, I don't have any way to project that.

Williams: I think that they have already selected the architect but they still have to finance it, the City Council has to appropriate the money. They are committed to doing this though so I would suspect that it would be the end of 2006 or 2007 before that will be on line. Part of it depends on are they going to remodel the current buildings or are they going to knock them down and start from scratch and I don't know if that decision has been made yet.

Clark: I have absolutely no problem with the Annexation to be perfectly honest with you because if we annex it we can control how it is zoned. The rezoning with the Fire and Police both saying it is going to be a strain, especially the Police Department. Never in a year have I read the Police Department saying this in all of the Annexations that we have done so I am going to pay attention to it.

Vaught: Emergency response vehicles already service a number of these areas due to shared service agreements do they not? I know my family grew up on Ed Edwards Road and we had fire and ambulance service through shared service agreements is that correct?

Pate: That is correct. The city does have certain shared agreements. I am not sure what jurisdictional boundaries those are. I don't know where those lines are drawn but there are agreements that the City Council does enter into for all types of public services surrounding the city.

Graves: We did have a convening of a task force last summer on annexation issues and we got a number of reports from emergency services. This area out this way, although it wouldn't be served by the Police Department when it is in the county, this is an area that the Fayetteville Fire Department is already servicing so whether it is zoned RSF-4 or not, this is an area that our Fire Department would have to go to. Those response times are there and you are looking at the number of calls would they have if you zone it at this density because there would be an increased number of calls depending on what density you zone it at.

Vaught: If it were in the county though we could have another Cherry Hills situation where they can build 10,000 sq.ft. lots, we have no control over those things, and the Fire Department still has to go there.

Ostner: On the issue of the projected fire station that we have been reading about, our current station is on Hwy. 265 maybe half way between Hwy. 16 and Hwy. 245 and that is not but ¼ mile or maybe ½ mile further than the new station, which is important but I don't think it is like the proposed fire station is being built next door.

Milholland: On a previous project the same discussion came up on the fire station and the Fire Chief was here at that time, and it was determined about what Mr. Williams said, a year and a half or two years. On a subdivision like this the build out of houses would be somewhere in the neighborhood of 2 ½ to 3 years before all of them were built. Even if we got the ok tonight and had to come back with a Preliminary Plat, we are looking at another several months. We are looking at bidding it at the very earliest in the Fall and a year of construction so you are looking at a year and a half before the first lot is ready to be built on and then it takes time to build those houses. The time frame to build out this subdivision will be after the revamping of the fire station.

Williams: The Tyson plant is also being considered as a new location for a police station. Nothing has been confirmed. The difference with police as opposed to fire is that police are on patrol throughout the city and so even though they are going to be moving closer to the site it doesn't effect much because police cars are on patrol through the city.

MOTION:

Clark: I will move that we approve ANX 05-1451.

Allen: Second.

Ostner: Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 05-1451 to the City Council was approved by a vote of 8-0-0.

Thomas: The motion carries.

Ostner: The tandem item is RZN 05-1452. We have already heard the staff report. We have already heard the applicant. Would anyone from the public like to speak to RZN 05-1452? Seeing none, I will close it to public comment and bring it back to the Commission.

Vaught: Staff, with the Master Street Plan in this area, how much right of way dedication is required?

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

7-Jun-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1451: (LANE, 571): Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. The property is in the Planning Area and contains approximately 24.191 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 5-20-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 5-23-05
City Attorney

Received in City Clerk's Office


[Signature] 5-25-05
Finance and Internal Service Director Date

Received in Mayor's Office


[Signature] 5/26/05
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: May 20, 2005

Subject: Rezoning for Lane (RZN 05-1452 – Tract A)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 24.191 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

The subject property contains 24.191-acres owned by the Lanes. It is located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision in southeast Fayetteville. With approval of ANX 05-1470, this property will be zoned R-A, Residential Agricultural. The applicant owns an additional 6.68 acres of property zoned C-1, Neighborhood Commercial to the south and currently within the City limits. A rezoning application was submitted to the Planning Division to rezone all 30.871 acres RSF-4. The Planning Commission separated its consideration of the property proposed to be rezoned, and made separate motions regarding the request to rezone the 24.191-acre tract of property (Tract A) and the 6.68-acre tract of property (Tract B). (See applicant's appeal of Planning Commission decision.)

The applicant intends to develop this property for a single family subdivision similar in density and character to the surrounding subdivisions. The applicant requests a rezoning of the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family – 4 units per acre, to allow the development of a residential subdivision.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. The Planning Commission voted 5-3-0 to forward this item to the City Council with a recommendation of approval, with Commissioners Ostner, Clark, and Allen voting no.

The original rezoning request was for a rezoning from the property annexed (24.191 acres, R-A) and that already in the city (6.68 acres, C-1). Staff recommended denial of this request, finding that the C-1 property was appropriate in this area and met the Future Land Use policy of the city. The Planning Commission separated the original request into two recommendations: (1) Approval of the RSF-4 for the northern 24.191 acres; and

(2) Denial of rezoning the existing C-1 to RSF-4. The applicant has subsequently appealed the vote to deny, which is also on this agenda.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1452 FOR APPROXIMATELY
24.19 ACRES LOCATED AT THE END OF COUNTRY RIDGE
ROAD, NORTH OF 16 EAST AND WEST OF DEERFIELD WAY
FROM R-A, RESIDENTIAL-AGRICULTURAL TO RSF-4,
RESIDENTIAL SINGLE FAMILY - 4 UNITS PER ACRE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described
property is hereby changed as follows:

From R-A, Residential-Agricultural to RSF-4, Residential Single Family - 4
Units/Acre, as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville,
Arkansas, is hereby amended to reflect the zoning change provided in Section 1
above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1452 (TRACT A)

REZONE FROM R-A TO RSF-4, THE FOLLOWING:

A PART OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS.

THENCE N02°40'06"E 1441.44 FEET;

THENCE N62°08'56"E 246.16 FEET;

THENCE N53°32'58"E 213.11 FEET TO THE EAST BOUNDARY OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SAID SECTION 20;

THENCE S02°32'24"W 664.64 FEET TO A POINT ON THE EAST BOUNDARY OF SAID NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$;

THENCE S87°16'57"E 448.50 FEET;

THENCE S02°41'09"W 1031.51 FEET TO THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY;

THENCE ALONG SAID CITY LIMITS BOUNDARY N87°38'06"W 827.08 FEET TO THE POINT OF BEGINNING, CONTAINING 24.191 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 4, 2005

RZN 05-1452: (LANE, 571): Submitted by MEL MILHOLLAND for property located at THE END OF COUNTRY RIDGE, N OF 16E AND W OF DEERFIELD WAY. The property is zoned R-A, Residential Agricultural and C-1, Neighborhood Commercial, and contains approximately 30.872 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Property Owner: FORREST & MODYNE LANE Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
① RZN of Tract A (24.191 acres)		☒ Approved	☐ Denied
Date: <u>May 09, 2005</u>		Motion to Approve: Vaughn/Trumbo ² 5-3-0	
② RZN of Tract B (6.68 acres): DENIED		Motion to Deny: Vaughn/Ostner ² 8-0-0	
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>June 07, 2005 (1st reading if recommended)</u>			

No: Ostner, Clark, Allen

BACKGROUND:

Property description: The subject property contains 30.872-acres owned by the Lanes. It is located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision in southeast Fayetteville. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river traverses the property to the east. At this time, the property is currently used for pasture with one single family home located on the property. With approval of the proceeding ANX 05-1451, the northern 24.191 acres will be zoned R-A, Residential Agricultural, and the 6.68 acres currently within the city is zoned C-1, Neighborhood Commercial.

Proposal: The developer intends to develop this property for single family use at a maximum density of 4 units per acre. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Recommendation: Staff recommends denial of the rezoning request to rezone the entire subject property RSF-4. The proposed zoning adjacent to Huntsville Road is not compatible with the General Plan 2020. The current C-1 zoning allows for the development of neighborhood commercial to serve the current and future residents of this area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Vacant/Pasture	C-2, Thoroughfare Commercial
East	Residential Single Family Vacant/Pasture	RSF-4, Res. Single Family – 4 units/acre Planning Area
West	One Single Family Home; pasture	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to East Huntsville Road. Road improvements per AHTD, City of Fayetteville, and dedication per the master street plan are required.

Surrounding Master Street Plan Streets:

South: Huntsville Rd (Principal Arterial)

East: Mally Wagon (Collector), Country Ridge and Deerfield Way (Local)

Water: Public water is adjacent to the site. There is an 8" main along East Huntsville Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system.

Sewer: The site is near sanitary sewer mains. A short off-site sewer main extension may be required to serve this development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located 4.3 miles from the Fire Station #5. Normal driving time to the site is approximately 9 minutes, with an estimated response time of 9.5 minutes for 28 projected calls at full build out. This does not take into account the decreased response time for the future Fire Station at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service

area. The potential of creating 120 new homes will increase the traffic on an already congested arterial street, (Huntsville Road).

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as **Residential and Neighborhood Commercial**.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The majority of property adjacent to the subject property is located within the Planning Area and consists of large tracts of land developed for single family and agricultural uses. Deerfield Place is the only property in the surrounding area which has been subdivided for single family use. This property is zoned RSF-4 and R-O and developed at approximately 3.13 units per acre.

The subject property contains approximately 30.872 acres. The southern 6.68 acres adjacent to Huntsville Road has been zoned C-1, Neighborhood Commercial, for several years. In 2001, the General Plan was updated to designate this area Neighborhood Commercial. This change reflected a previous land use decision to allow development of commercial uses compatible with residential use. Future development of a majority of the subject property at 4 units per acre would be compatible with the development within the City. However, rezoning the southern 6.68 acres from C-1 to RSF-4 is not consistent with the General Plan, a policy adopted five years ago, under which we currently operate.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed rezoning of the southern 6.68 acres is not justified or needed at this time. The General Plan 2020 identifies Neighborhood Commercial Areas as: "commercial areas [which will] meet the shopping needs of adjacent residents" and areas to "provide commercial uses that are accessible for the convenience of individuals living in residential districts." The nearest community commercial area adjacent to this property is located at the intersection of Crossover Rd. and Huntsville Road. Retaining the current C-1 zoning in this area will allow the development of commercial uses which will be compatible with and serve the existing residential developments.

Should the annexation request for the 24.191 acres north of the existing city limits be approved, the property is zoned R-A by default. The applicant is

requesting the consideration of rezoning this property to RSF-4 should the annexation request be approved. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The additional density will create an increase in the amount of traffic currently utilizing Huntsville Road and intersecting streets. The West Fork of the White River to the north of this and surrounding properties may prevent a northern street connection. No north-south street connection is identified on the Master Street Plan between Mally Wagon Road and Starr Drive, an unconstructed street. Staff recommends connectivity between future development of this property and surrounding properties to allow for many alternative routes of travel to Huntsville Road.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning will increase population density from that zoning currently in place. The 24.191 acre tract under an R-A zoning designation would allow for a maximum 12 single family residential dwelling units. With the proposed RSF-4 designation for the entire 30.872 acres, a maximum of 123 single family dwelling units would be permitted.

Increased load on public services were taken into consideration and recommendations from Engineering, Police Department, and Fire Department are included in this report.

Police Comments: It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 120 new homes will increase the traffic on an already congested arterial street, (Huntsville Road).

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

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161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

Fayetteville Fire Department Service Delivery Impact: Zoning Review November 30, 2004										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX05-1451	Lane, 571	YES	24.19	5	4.3 miles	9 minutes	9.5 Minutes	0	0	0
RZN 05-1452	Lane, 571		30.87	5	4.3 miles	9 minutes	9.5 minutes	28	11	17
RZN 05-1448	Stagg, 678		0.34	1	2.1 miles	5 minutes	5 minutes	0	0	0
RZN 05-1449	Payne, 755		4.73	1	3.8 miles	7 minutes	7 minutes	8	3	5
RZN 05-1450	Stonebridge		26.61	5	3.4 miles	7 minutes	7 minutes	24	9	15
RZN 05-1480	Bill Eddy Mot		2	7	1.2 miles	3 minutes	3 minutes	0	0	0

→ ANTICIPATED RESPONSE TIME FROM FIRE STATION #2 (FUTURE) IS 6-7 MINUTES.

April 18, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1451 (LANE, 571): submitted by MEL HOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. This property is in the Planning Area and contains approximately 24.19. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

In reference to RZN 05-1451 (LANE, 571): submitted by MEL HOLLAND for property located at THE END OF COUNTRY RIDGE ROAD, N OF HWY 16E, W OF DEERFIELD WAY. This property is in the Planning Area and contains approximately 30.87 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acres.

It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the very outer fringes of our current service area. The potential of creating 120 new homes will increase the traffic on an already congested arterial street, (Huntsville Road).

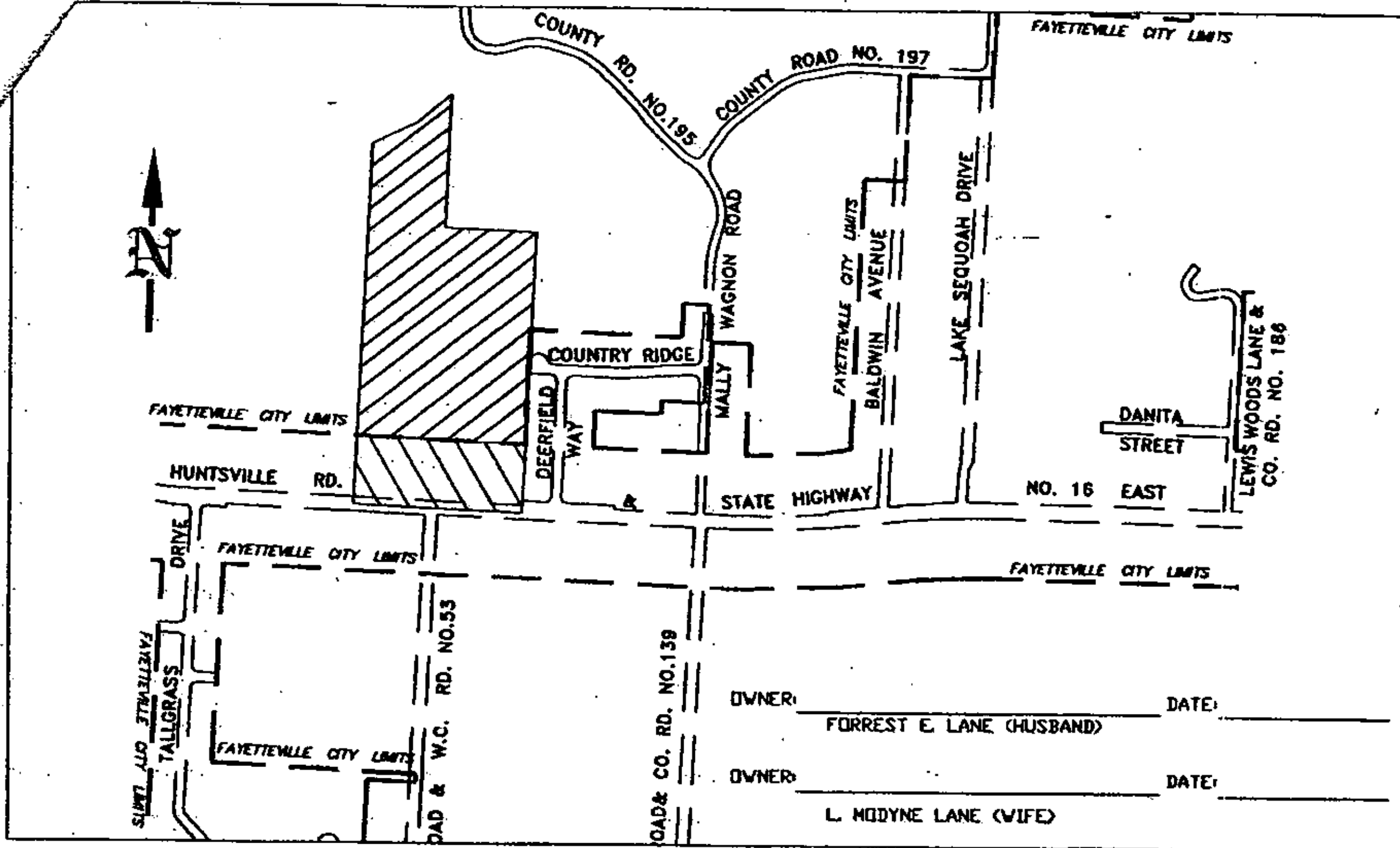
Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Captain William Brown
Fayetteville Police Department

EXHIBIT "A"

C. 2
RZN 05-1452 (Lane)
Page 15 of 30



REZONING

VICINITY MAP

E--745

REZONING DESCRIPTION: (REZONE ALL LANDS TO RSF-4)

REZONE FROM R-A TO RSS-4, THE FOLLOWING:

A PART OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241 IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS.

THENCE N02°40'06"E 1441.44 FEET;

THENCE N62°08'56"E 248.16 FEET;

THENCE N53°32'58"E 213.11 FEET TO THE EAST BOUNDARY OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SAID SECTION 20;

THENCE S02°32'24"W 664.64 FEET TO A POINT ON THE EAST BOUNDARY OF SAID NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$;

THENCE S87°16'57"E 448.50 FEET;

THENCE S02°41'09"W 1031.51 FEET TO THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY;

THENCE ALONG SAID CITY LIMITS BOUNDARY N87°38'06"W 827.08 FEET TO THE POINT OF BEGINNING, CONTAINING 24.191 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

AND REZONE EXISTING CITY PROPERTY TO RSF-4, AS FOLLOWS:

A PART OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W $\frac{1}{4}$) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW $\frac{1}{4}$),

THENCE N02°40'06"E 350.01 FEET;

THENCE S87°38'06"E 827.08 FEET;

THENCE S02°41'09"W 353.76 FEET;

THENCE N87°22'31"W 826.96 FEET TO THE POINT OF BEGINNING, CONTAINING 6.681 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

TOTAL REZONING TO RSF-4, BEING 30.872 ACRES MORE OR LESS.

LANE
RZN05-1452

RECEIVED

APR 08 2005

CITY OF FAYETTEVILLE
PLANNING DIVISION

*see attached
for page 1 of
2nd submittal
w/ corrections*

EXHIBIT "A"

PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

[Signature]
Applicant's Signature

second submittal : parcels close

submitted as: RZN05-1452

4/15/05

TR

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

April 21, 2005

Project No. E-745

FAYETTEVILLE

125 West Mountain

Fayetteville, Arkansas 72701

ATTN: Suzanne Morgan, Planning Division

RE: Lane Property - Zoning Request

Dear Suzanne:

The following information is provided to address request for Staff support of the presented Zoning Request, and to properly address Item 5 and 6 of the Zoning Application.

5.a Current ownership information and any proposed or pending property sales.
The current owner is Forrest and Modyne Lane, as stated in the application.

NLC, Inc., Mr. Clint McDonald, hold option to purchase the property for future development as a residential subdivision as per the requested Zoning indicates.

5.b. Reason (need) for requesting the zoning change.
The proposed, pending Owner desires to develop the property as single family residential at the proposed RSF-4 Zoning requested. Owner and Developer recognize the demand for and lack of single family homes in this area.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The property is bound on the east by single family homes, similar in concept as will be proposed for development on the Lane property. There also exist somewhat similar residential developments south of the Lane property. There exist a drainage ravine to the west that is not conducive to normal development practices. To the north is rural residential farm lands. Development of the site as proposed by the requested zoning is compatible with the surround properties and land use. A portion of the property is currently zoned Commercial (C-1); by the City's annexation of a corridor frontage along Hwy. 16. The designation commercial with an existing RSF-4 residential development (Deer Field Place) to its east and a physical terrain feature separation to the west creates a pocket (spot) of commercial development which does not fit with the consistent intent of the City's Land Use Plan.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

Traffic as always is a concern to current users of the existing roadway system, as well as to the prospective purchaser of a new home and to the developer marketing the sale of the new home. And, all new development increases traffic flow. The proposed development will have access and connectivity provided from the south, Hwy. 16; from the east, Deer Field Place; and to the north for future development(s). The impact of generated traffic will be only to Hwy. 16.

The project appearance will be one of constructed moderate homes of mid income families just as currently found in the surrounding area and current the trend for similar development throughout Fayetteville. Single family homes will blend with the existing surroundings.

The proposed Owner/Developer, NLC, Inc. intends to provide a monument style Identification sign and attractive landscaping at the proposed subdivision entrance. Also, anticipated is appealing screening along frontage of Hwy. 16 in the form of backyard fencing and landscape plantings.

5.d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

Both water and sanitary sewer service are available and easily accessed for expansion and serving the proposed subdivision.

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principals, and policies and with land use and zoning plans.
The proposed development is in keeping, totally with the City Land Use Planning.

6.b. Whether the proposed zoning is justified and/or needed at the time of the request.

Both the prospective Owner/Developer, NLC, Inc.; the current land owners; the Lanes; as well as MCO believe that the requested zoning is justified and needed at this time due to the demand for moderate housing in this area.

6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

While the proposed development may increase traffic flow onto Hwy. 16, no undue danger or congestion at this location should be expected.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water and sewer facilities.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

Public facilities provided by the City to serve anticipated growth in this direction from Fayetteville are very adequate in serving the demands of this proposed development and other future similar developments.

6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

Currently, RSF-4 is acceptable, normal, and feasible development. Any zoning less would not be economically feasible.

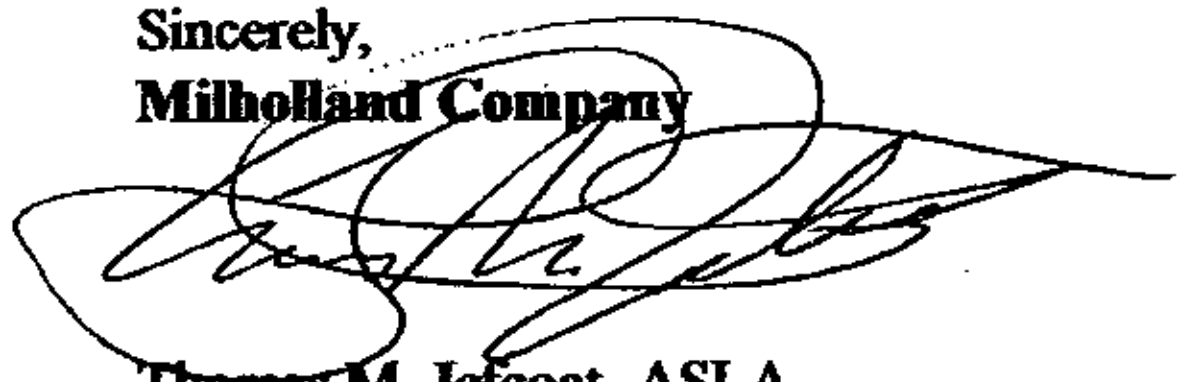
NLC, Inc., Mr. McDonald, trust that Planning Staff, the Planning Commission, and members of the City Council find this proposed project acceptable in its intent, scope, and ability in serving the needs of the community.

MCO is available, as well as is Mr. McDonald, to discuss this project additionally with Staff if there are issues that may need resolving to gain staff support of the requested Annexation and Zoning.

Your continued assistance and cooperation in the progress of Fayetteville's growth, and this project are appreciated.

Sincerely,

Miltholland Company



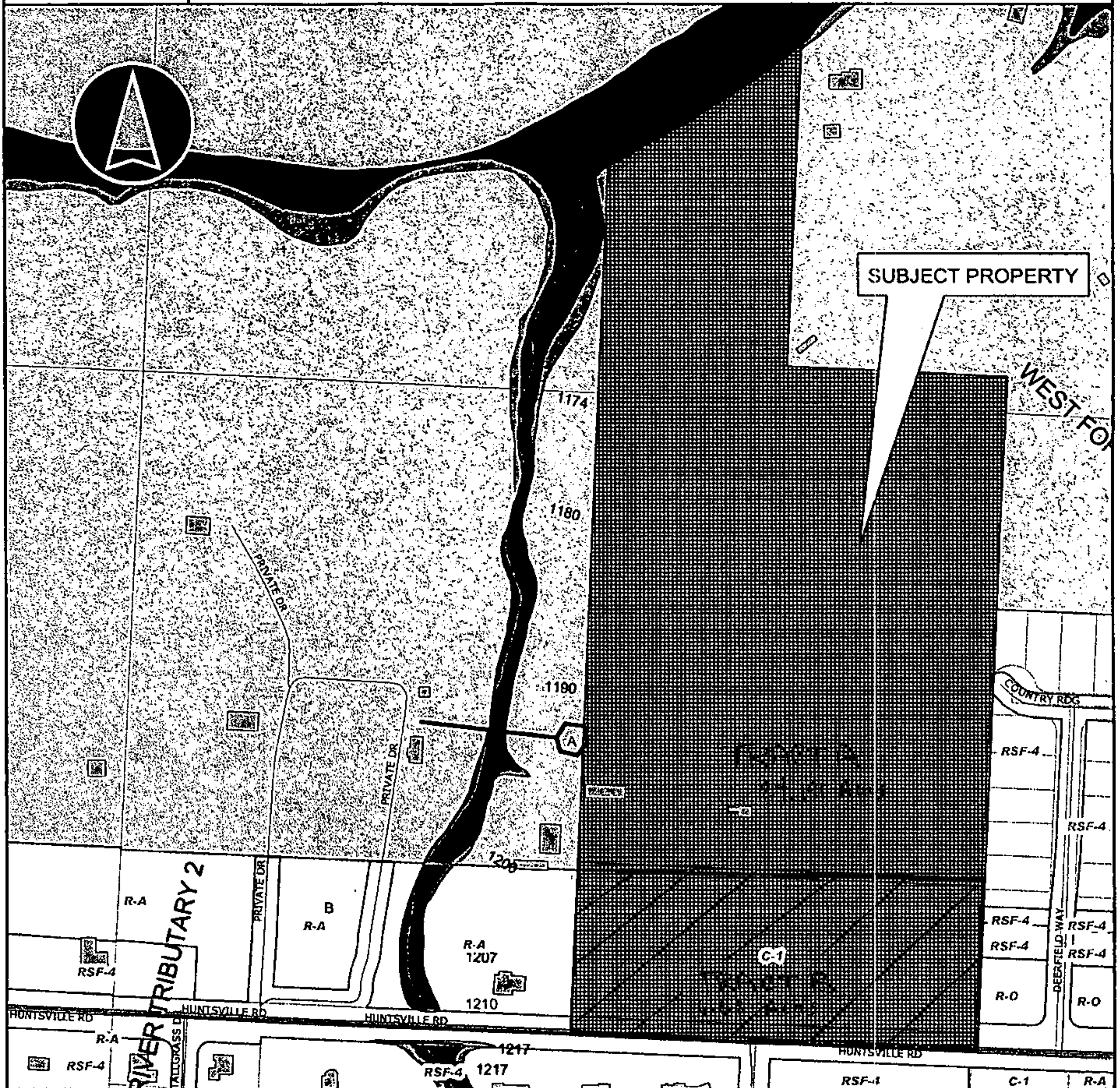
Thomas M. Jefcoat, ASLA
Senior Projects Manager.

cc: Mr. Clint McDonald

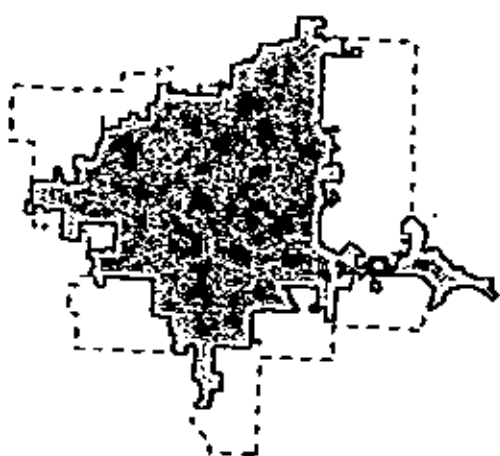
RZN05-1452

Close Up View

LANE



Overview



Legend

RZN05-1452

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

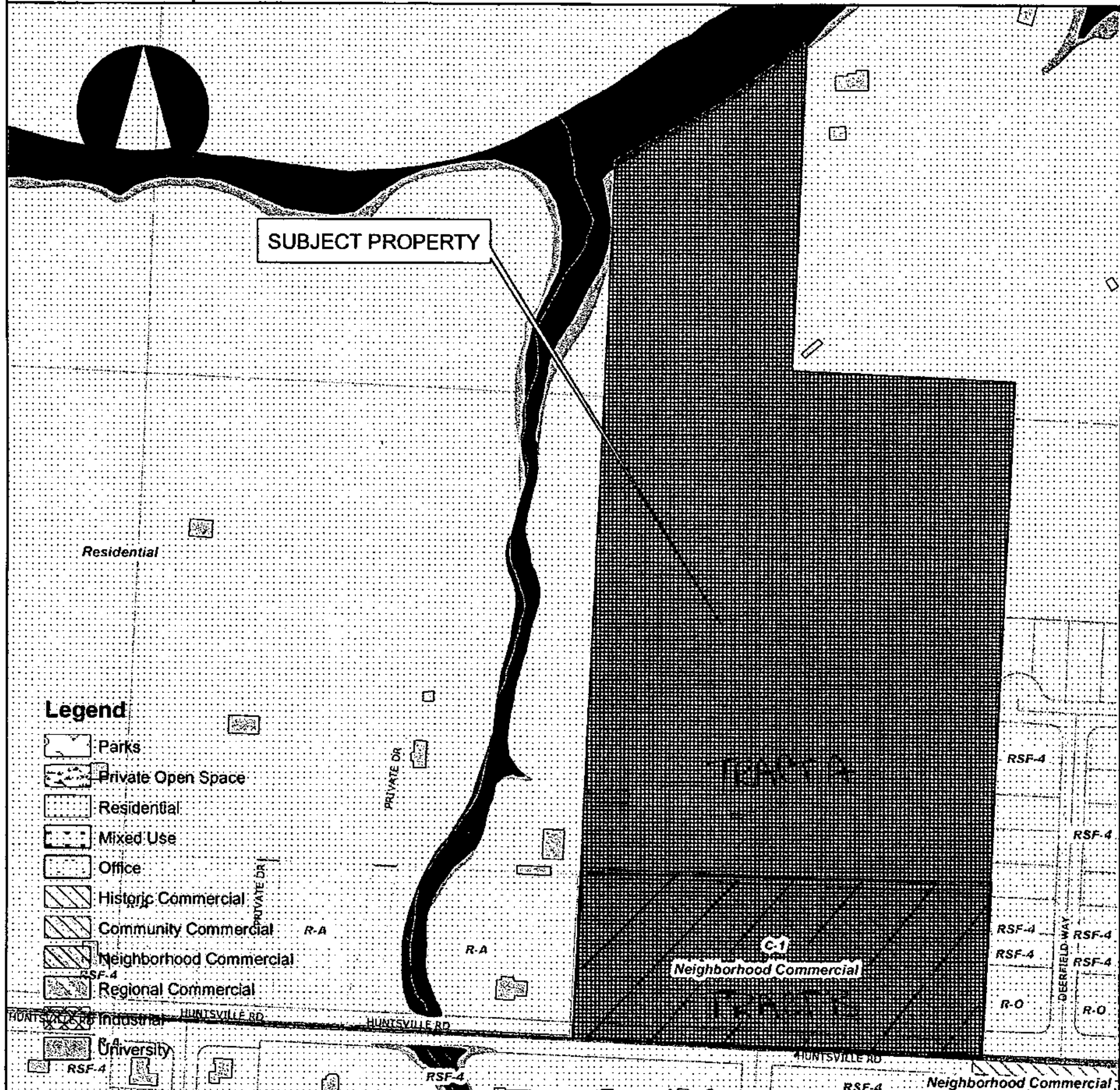
Outside City



RZN05-1452

Future Land Use

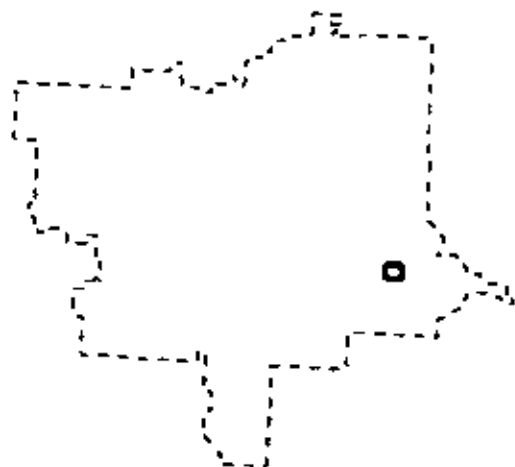
LANE



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN05-1452

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- Outside City

Master Street Plan

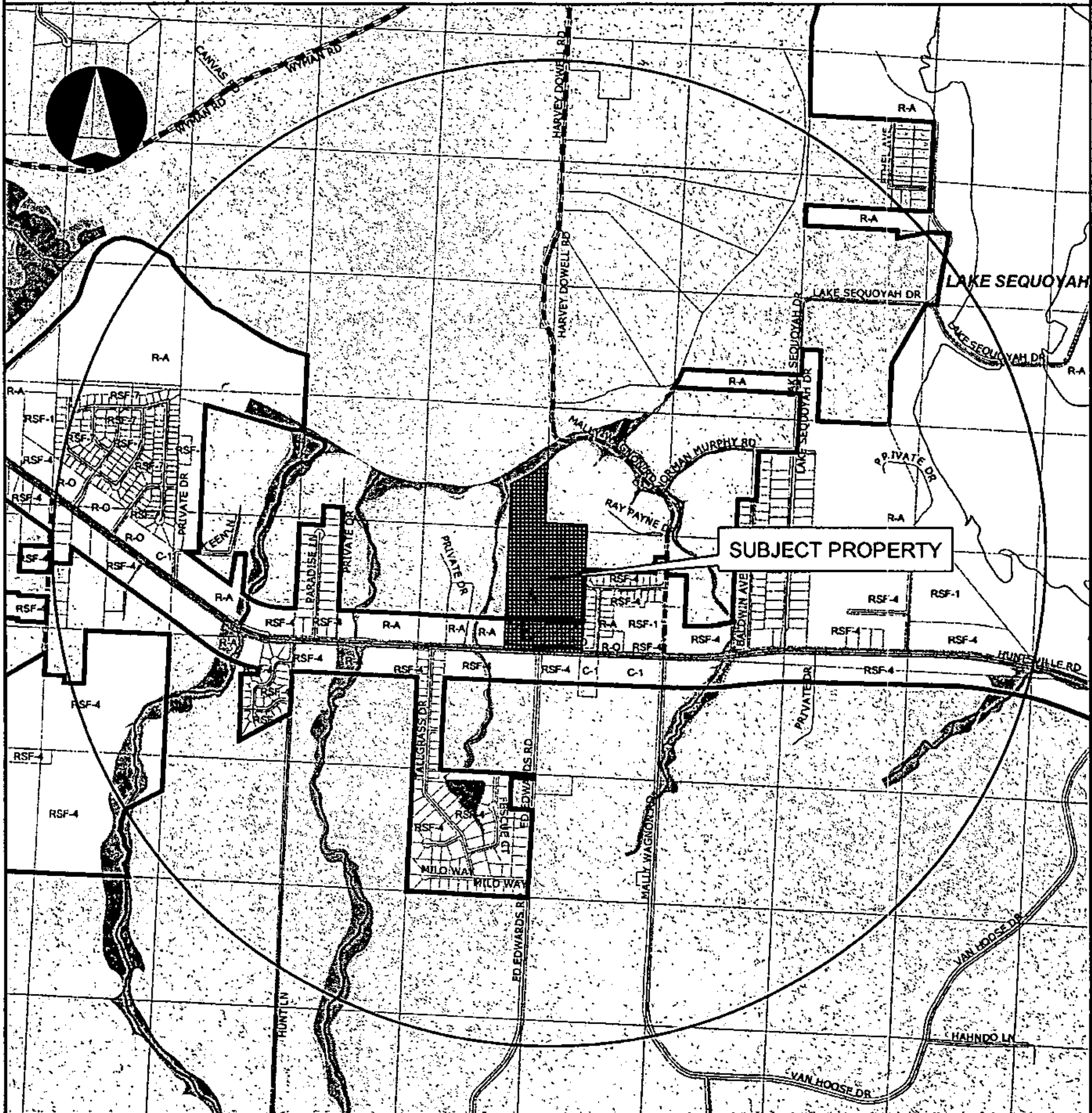
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector



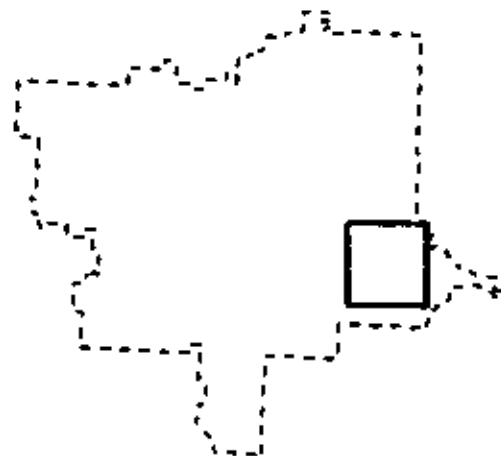
RZN05-1452

One Mile View

LANE



Overview



Legend

Subject Property

RZN05-1452

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Ostner: On the issue of the projected fire station that we have been reading about, our current station is on Hwy. 265 maybe half way between Hwy. 16 and Hwy. 245 and that is not but ¼ mile or maybe ½ mile further than the new station, which is important but I don't think it is like the proposed fire station is being built next door.

Milholland: On a previous project the same discussion came up on the fire station and the Fire Chief was here at that time, and it was determined about what Mr. Williams said, a year and a half or two years. On a subdivision like this the build out of houses would be somewhere in the neighborhood of 2 ½ to 3 years before all of them were built. Even if we got the ok tonight and had to come back with a Preliminary Plat, we are looking at another several months. We are looking at bidding it at the very earliest in the Fall and a year of construction so you are looking at a year and a half before the first lot is ready to be built on and then it takes time to build those houses. The time frame to build out this subdivision will be after the revamping of the fire station.

Williams: The Tyson plant is also being considered as a new location for a police station. Nothing has been confirmed. The difference with police as opposed to fire is that police are on patrol throughout the city and so even though they are going to be moving closer to the site it doesn't effect much because police cars are on patrol through the city.

MOTION:

Clark: I will move that we approve ANX 05-1451.

Allen: Second.

Ostner: Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 05-1451 to the City Council was approved by a vote of 8-0-0.

Thomas: The motion carries.

*

Ostner: The tandem item is RZN 05-1452. We have already heard the staff report. We have already heard the applicant. Would anyone from the public like to speak to RZN 05-1452? Seeing none, I will close it to public comment and bring it back to the Commission.

Vaught: Staff, with the Master Street Plan in this area, how much right of way dedication is required?

Planning Commission

May 9, 2005

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Pate: It is a principal arterial so it would be 55' from centerline for Hwy. 16.

Vaught: So we would be left with a strip of C-1 800' long and 250' wide basically?

Pate: No, there is already existing right of way out there. It is not necessarily the entire 55' of that property. Most properties along Hwy. 16 are about 80' wide in right of way so it would probably be an additional 15'.

Vaught: I'm not an experienced builder or architect, is that adequate to produce C-1 properties on a lot of that size? I don't know if Commissioner Lack wants to address that or staff.

Pate: I would say so. We see properties all the time that are less than an acre develop for commercial use. This is about 5 ½ acres for development on a principal arterial. I would assume with that depth that there would be adequate space.

Ostner: We rezoned a home on Hwy. 71 across from the jail C-2 a couple of weeks ago.

Vaught: That was an existing structure and you would be building something here.

Lack: I would concur with Mr. Pate that that does seem to be a reasonable depth. Beyond that, you might start seeing out lots or something of that nature.

Ostner: On that note, I would like to look at the map. Mr. Milholland mentioned that this property faces RSF-4 across the street and mentioned that that might not be the best commercial situation. The C-1 property to the east also faces residential zoning across the street. I believe commercial zoning can mix perfectly across the street with residential uses. We call that mixed use. I don't think that is a reason to turn the C-1 part into residential simply by when it faces a major arterial.

Vaught: Staff, on the next item, not that we can consider that, but it is next door and we are recommending to approve that one all RSF-4. Why wouldn't we want this commercial to extend further down with the major road frontage?

Pate: The Future Land Use Plan shows that piece of property as commercial. We are trying to get away from a strip commercial type of development as you have seen on 6th Street in recent actions by the City Council and Planning Commission. That is in our Land Use Plan to attempt to get away from those and establish these nodes of development. On the Future Land Use Plan you can see nodes at these intersections. The reason we are recommending approval on the property to the west is it shows as residential on our Future Land Use Plan. We would recommend also for

Planning Commission
May 9, 2005
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approval on the Lane rezoning were the C-1 property not located within it. It is under the jurisdiction of this body to recommend at least that portion of property to the City Council for rezoning if they choose to vote in that manner. We would support RSF-4 zoning north of the C-1. You can consult with the applicant to see if they would like to go forward with that as well. I think that is an option we have utilized in the past for the Planning Commission to make a recommendation.

Williams: I wouldn't be comfortable in cutting their property without their permission and separating a parcel out even though right now it is zoned two different ways. That would have to be something I think the applicant would have to agree to. You can recommend a different rezoning for the entire parcel but I don't think we can cut parcels up without the permission of the applicant.

Vaught: We see stuff all the time, this was a blueberry farm in the past zoned C-1 that we changed the zoning on. The difference on this is the Future Land Use Plan which was just done five years ago, they specified this as Neighborhood Commercial. Most of the time they will overlay it with residential if they think it should change to residential at the time that they did the plan. That is where I have trouble with it a little bit in wanting to change it to RSF-4. I don't know if it is an ideal location. I was curious about the lot size. I would like to see an intersection just for access and people leaving the site. It is a unique situation I think for sure. They did on the 2020 Plan specify this as Community Commercial for a reason.

Clark: I will move that we deny RZN 05-1452 for reasons stated.

Myres: I will second.

Ostner: Is there further discussion?

Milholland: I guess we submitted one application for all of it to be rezoned to RSF-4. If the body here is going to deny the whole thirty acres where does my client stand as far as bringing it back in? We would like if nothing else, just the part behind the C-1 that Jeremy was talking about. We don't want all of it denied if we are going to have to wait a year to come back.

Williams: Your options obviously, you have many options. One is to appeal and go to the City Council and they make the final decision. If you wanted to change your zoning so it is not the identical request as has been denied by the Planning Commission then you could certainly do that and not have to wait a year for that.

Milholland: Can we do it tonight?

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Williams: Yes, I will go along with what Jeremy said as long as that is what you all are offering and that is what you want to do. I didn't feel like we had the right to separate the parcel for you. I would think that if that is your choice and the City Planner is going to agree to that then I will go ahead and say that you can do that.

Milholland: I don't know how everybody is going to vote. If I could read your mind I would know what to do. If we could request the Commission vote on the area that is being annexed in separate from the C-1 at least give us some feeling about how you feel about it and probably the Commission too.

Ostner: In essence you are asking for...

Milholland: Two votes.

Ostner: On the rezoning it is the same request but the area has changed. You are still requesting RSF-4 but you are only requesting the area north of the C-1.

Milholland: The existing city limits which is 24.192 acres. If it is possible I would request also after that to vote on the 6.68 acres that is in the city limits.

Ostner: I think that would be a new item. Mr. Williams? We have not had a staff report on any of that so I would not be comfortable scrutinizing changing that piece from C-1 to anything else but I would have to hear from staff.

Milholland: We would like to walk away going to City Council with something. I think we know what everybody feels and I am sure that staff feels that what they have made a recommendation on is what they feel because of the 2020 Plan.

Williams: I am going to defer to Jeremy Pate, our City Planner on whether or not, there has been a staff report that covered the entire 30 acres even though it covered it together. I will leave it up to him whether or not he feels like it would be appropriate to allow for a separate vote, one for each parcel. I don't feel like it is legally not allowed from my point of view but I am going to leave the final decision up to Mr. Pate because he is the interpreter of the zoning code.

Graves: Is the request that we vote up or down on the part that we just annexed and then vote up or down RSF-4 on the part that is C-1?

Milholland: Yes.

Pate: In the interest of time, that is exactly what I was looking for when I said maybe we could split the property into two and look at those separately.

What I would like not to happen is for Mr. Milholland and his client to go back through our 40 day process plus three weeks to get to City Council and we are going to make the same staff report. I think we have discussed the relevant issues tonight. We do have in our possession legal descriptions for the annexation and a legal description for the C-1 property and therefore, we could pass both of those recommendations forward to the City Council. Should they be voted for or should the applicant feel within relative ease. Staff recommends RSF-4 on the portion north of the C-1 and recommend denial for the rezoning to RSF-4 on the portion currently zoned C-1. We would recommend that you vote either in favor or against those tonight and forward this onto the City Council for finalization.

Clark: First, I am going to withdraw my motion. I understand that staff is recommending not rezoning this because of the C-1 property. What is the rationale of the Police Department to be opposed to this rezoning? I am assuming it has nothing to do with the C-1 status. I am assuming it has to do with the proximity of how far out the land is.

Pate: I would assume so. The letter you have in your packet is what we received. Just to correct you, we have had in the last few months a couple of those police reports that stated in the negative on those rezonings, specifically out east and one application out in west Fayetteville that they had concerns with the population density. You are correct though, most often it is the case that they have typically the same recommendation. There is that paragraph at the end now that the Police Department does include. Honestly, I hate to speak for the Police Department. It is our job to compile these reports, based on our Planning Policies, our Future Land Use Plan and the City Council's direction with those policy documents to make that recommendation. It is not in my opinion, and we've seen it in the past, the Council is not always going to agree with the Commission or the staff, the Planning Commission is not always going to agree with staff, but those are policy documents that we are attempting to forward to you with recommendations based on those. We feel that it is appropriate that the property is zoned RSF-4 if it is annexed into the City with City Council's vote.

Allen: Was that a factor in your decision making process about what to recommend to us?

Pate: It always is. The City Council has required us to form a Zoning Review Team. The Police Department, the Fire Department are both part of those. That is why you have those reports. Whereas, a year and a half or two years ago you did not have those reports. The City Council found it prudent to include those and those representatives are present for City Council meetings. They have not been required to be in the Planning

Commission forum by the City Council but they are there to answer questions by the City Council in making those land use kind of decisions.

Allen: I would just hate for us to make a decision based on the probability of the building of a fire station or police station.

Pate: I entirely agree. That is not the basis of our recommendation. That is just another factor to throw in there. That may never happen and we are not banking this recommendation on that fire station by any means. That is a very good point.

Graves: I didn't read the letter from the Police Department to be a denial or a recommendation that this not be rezoned as requested. I read it as they are concerned about the number of calls it might generate. I don't think they said we should deny it. There was some negative language in there but it wasn't a recommendation for denial. I would note that our experience on the Annexation Task Force last year with the Police Department on these issues is that they are concerned about piece by piece things coming in and it makes them difficult for them to plan for man power and things of that nature. That is sort of how they are looking at it as how this body has expressed several times that they wish they could look at it. The Police Department wishes that they had it the same way, that there was a lot of annexed property out there and they could sort of plan accordingly. They are dealing with the reality of the situation that we have right now which is things come in piece by piece and we have to do it with all kinds of things that present issues, sidewalks, the width of streets that are going out to these neighborhoods, those present challenges in development and we try to do it piece by piece. As a piece comes in then we try to get improvements to the roads in that area and we try to get sidewalks in that area. I would say that the same thing is going to happen with the Police. They are already traveling out this far. There are going to be a number of extra calls that are generated by a neighborhood of this size but they are already patrolling out that far and beyond it. The concern is just that until you rezone it and build it, the police man power is not going to have a reason to catch up. I guess the only way that that happens is as the city grows. I am sure that the police force was much smaller 50 years ago in Fayetteville than it is now. As you grow the city they are constantly trying to keep up. I'm sure that there is concern about that but that is the only way that it happens just like it is the only way that street improvements and sidewalk improvements and things of that nature happen.

Lack: In trying to assess some logic in the change of direction here, I looked ahead as I know that we have a very similar condition coming up and with specific relevance to the Police Department's recommendation, that the Police Department also had a very similar verbiage for the next rezoning and that was not sufficient to deny a recommendation for approval on that

so I would apply that logic to this. That there must have been other things that caused staff to make that recommendation.

Ostner: Yes. I believe since staff has altered it's recommendation with the change in parcels of land that goes along with your opinion.

Vaught: Staff, in making a motion, how do we do that, Lot A and Lot B?

Williams: I would just say "A" and "B" with the original number that you have there.

Vaught: For the reasons stated by a number of Commissioners and staff I do find that RSF-4 is a suitable zoning district in this area for the northern tract which we will call "A", the annexed portion. That being said, I will make a motion for approval of RZN 05-1452(A) for the north session of this request to RSF-4.

Trumbo: I will second.

Ostner: We have a motion to recommend to forward the northern Tract "A" that has just been annexed from R-A to RSF-4.

Trumbo: I will second.

Ostner: Is there further discussion? Would you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 05-1452(A) to the City Council was approved by a vote of 6-0-3 with Commissioners Clark, Ostner and Allen voting no.

Thomas: The motion carries.

Vaught: That being said, on the second tract I will make a motion to deny the RSF-4 rezoning for the C-1 session based on Staff's findings and recommendations. I think it is something that at our level I feel comfortable denying, the City Council has the right to find differently if they view this to be something to change. In the policy set forward, they specifically call this out in the 2020 Plan as C-1 and it is a good way to break up the monotony. I know we face the same issues further up Huntsville Road trying to change some R-O and RSF-4 so it is not a constant band of commercial. I will make the motion to deny RZN 05-1452(B).

Ostner: I will second your motion. Is there further discussion? The motion is to deny the rezoning from C-1 to RSF-4 on the southern tract "B" of this piece of property.

Planning Commission
May 9, 2005
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Myres: We have recommended to deny and if I agree with that I need to vote yes?

Ostner: That is right.

Lane: I am Forest Lane. I own the property in question. The piece of property you are describing here as Section "B" has been in my possession as C-1 from the time that I purchased it 18 years ago. That has never been utilized as C-1 property and I believe that it should be adjusted because there is no other C-1 property on that same side of the highway. I believe that it should be adjusted to RSF-4 as was the first portion.

Ostner: We do have a motion to deny this rezoning request. Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to deny RZN 05-1452(B) was approved by a vote of 8-0-0.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 2
RZN 05-1452 (Lane)
Page 30 of 30

7-Jun-05

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1452 (Lane-Tract A): A rezoning request for Lane, submitted by Mel Milholland for property located at the end of Country Ridge, north of 16E and west of Deerfield Way. The property is zoned R-A, Residential Agricultural, and contains approximately 24.191 acres. The request is to rezone the subject property to RSF-4, Residential Single Family - 4 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office



Mayor

Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: May 20, 2005

Subject: Annexation for Phillips/Baggett (ANX 05-1470)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Phillips/Baggett, a 29.59-acre tract located north of Huntsville Road. This action will incorporate the 29.59-acre tract of land contiguous with the city limits into the City of Fayetteville.

BACKGROUND

The subject property contains 29.59-acres owned by the Phillips and Baggetts. It is located north of Huntsville Road (Hwy 16 East) and Sequoyah Meadows Subdivision. Property to the east is owned by the Lanes and currently under consideration for annexation into the City of Fayetteville. At this time, the property is currently used for pasture and single family residential use. It is within the Planning Area and adjacent to the City limits along the southern property line and east property line should the proceeding ANX 05-1451 be approved by the City Council. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river bisects the eastern portion of the property.

Annexation of the property will not create an island of unincorporated property, and extends the city limits north to the West Fork of the White River, a natural barrier. Water and sewer service shall be extended to the property at the time of development. Improvements to the existing infrastructure adjacent to this site and construction of streets in compliance with the Master Street Plan will be required at the time of development. City fire and police currently service the adjoining neighborhoods.

The applicant requested annexation of the property into the City of Fayetteville. A rezoning request has also been submitted, for RSF-4 zoning. The applicant intends to develop the property for residential use within the City of Fayetteville.

Staff recommended approval of the proposed annexation. No public comment was received for this item.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommend of approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 05-1470 FOR PROPERTY LOCATED AT 5150 AND 5270 E. HUNTSVILLE ROAD CONTAINING APPROXIMATELY 29.59 ACRES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. The official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. One.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"

EXHIBIT "A"
ANX 05-1470

PROPERTY TO BE ANNEXED (TRACT 1)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET TO THE P.O.B., THENCE N00°15'34"E 1370.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S00°15'34"W 1440.54 FEET, THENCE S89°52'59"W 635.48 FEET TO THE P.O.B.; CONTAINING 19.87 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE ANNEXED (TRACT 2)

PART OF THE W1/2 NW 1/4 OF SECTION 20, T16N, R29W, IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET, THENCE N89°52'59"E 635.48 FEET TO THE P.O.B., THENCE N00°15'34"E 1440.54 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1446.62 FEET, THENCE S89°52'59"W 294.91 FEET TO THE P.O.B.; CONTAINING 9.72 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.



PC Meeting of May 25, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 4, 2005

ANX 05-1470: Annexation (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5270 E HUNTSVILLE RD. The property is in the Planning Area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report:

PLANNING COMMISSION ACTION:		Required <u>YES</u>
	☒ Approved	☐ Denied
Date: <u>May 09, 2005</u>	<i>Motion to App.: Clark/Myres 8-0-0</i>	
CITY COUNCIL ACTION:		Required <u>YES</u>
	☐ Approved	☐ Denied
Date: <u>June 07, 2005 (1st reading if recommended)</u>		

BACKGROUND:

Property description: The subject property contains part of two tracts totaling 29.59-acres owned by the Phillips and Baggett. It is located north of Huntsville Road (Hwy 16 East) and Sequoyah Meadows Subdivision. Property to the east is owned by the Lanes and currently under consideration for annexation into the City of Fayetteville. At this time, the property is currently used for pasture with several single family homes located on the property. It is within the Planning Area and adjacent to the City limits along the southern property line and east property line should the proceeding ANX 05-1451 be approved by the City Council. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river bisects the eastern portion of the property.

Proposal: The applicant proposes annexation of 29.59 acres into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation based on the finding herein.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Vacant/Pasture	R-A, Residential Agricultural
East	Vacant/Pasture	Planning Area (RSF-4, Res. Single Family – 4 units/acre proposed)
West	Single Family Home; pasture	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to East Huntsville Road. Road improvements per AHTD and dedication per the master street plan are required.

Surrounding Master Street Plan Streets:

South: Huntsville Rd (Principal Arterial)

East: Mally Wagon (Collector), Country Ridge and Deerfield Way (Local)

Water: Public water is adjacent to the site. There is an 8" main along East Huntsville Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system. This may include an off-site connection to be determined at a later date.

Sewer: The site has access sanitary sewer. There is a 6" sewer main along the east half of the property. Sewer will need to be extended within the property at the time of development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 3.9 miles from the Fire Station #5. Response time to the property is 8 minutes with a projected response time at full build-out to be approximately 8 minutes with 34 annual calls for service. This does not take into account the decreased response time for the future Fire Station at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island of unincorporated property and does not exacerbate problems created by the extension of peninsulas. Due to rapid growth, the City of Fayetteville in the 1960's annexed a peninsula of property to incorporate Lake Sequoyah, a primary water source, within the city limits. Since this time, the City has annexed several properties north and south of the 600' Huntsville corridor. The proposed annexation, while extending this existing peninsula, does not extend further north than the surrounding city boundaries. In fact, it begins to "fill in" the land that is encompassed on all sides but the north by existing city limits. Therefore, staff finds that the proposed annexation will not further exacerbate any problems associated with the current situation.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south. Should ANX 05-1451 be approved by the City Council, the property will abut the city limits along its eastern boundary, as well.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and located between properties within the city. There are several surrounding subdivisions north and south of Huntsville Road. Structures on the subject property consist of several single family dwellings. The property does not consist of defined subdivisions or neighborhoods; however, future development plans include residential development of the property. Annexation of the property would allow for Planning Commission review of development in accordance with City standards, and would require the same standards of development as the adjacent properties already within the city limits.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels. The northern boundary of the annexation follows a natural corridor created by the White River. There are no anticipated or planned crossings of the river in this area, which creates a natural boundary for development.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 8 minutes for fire protection from Fire Station #5. Response times are anticipated to be reduced with the construction of a new fire station on Huntsville Road at the Tyson Plant. Additionally, the City's Fire Department currently responds to calls much further west and north of this property, with much higher response times. Extension of water and sewer lines will occur at the time of development to aid in the improvement of services.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture land. Tree canopy is concentrated along property lines and within the riparian corridor of the West Fork of the White River. This river acts as a natural barrier from this property to the north. Development regulations within the City will ensure appropriate development and preservation of the existing natural features on the property. Development outside the city does not allow for the requirement of parks, open space or tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police currently serve subdivisions further east of the subject property. Service shall be provided to this area with the same level of response and service as other developments in this area.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas. The subject property is not being served by city utilities at this time.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. At this time, the property is agricultural in nature.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City, though it has been discussed as desirable for annexation in past task force meetings. It is, however, located adjacent to another parcel of property requesting annexation into the City of Fayetteville. In a location where the current city boundary extends only 300' from Huntsville Road, expanding the city limits north to the river will create a more appropriate City boundary and allow for development to occur under city guidelines. Additional property to the west is currently under consideration for annexation as well.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request for annexation and request to rezone this property

RSF-4, Residential single family - 4 units/acre. Additionally, the applicants request to rezone the southern portion of their property that is currently within the City and zoned R-A to RSF-4.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of 29.59 acres owned by the Phillips and Baggetts. The property owner to the east has also received an Order of Annexation from the County and has submitted a request for annexation of approximately 24 acres. The annexation of all properties will incorporate a larger area into the City and create a more acceptable boundary, with the West Fork of the White River a natural boundary to the north. As additional petitions of annexation are submitted, the annexation of additional property to create a city boundary which follows the existing natural barriers (i.e. the riparian corridors) and the existing streets will create an even more desirable city boundary.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 29.59 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.

Fayetteville Fire Department Service Delivery Impact: Zoning Review April 26, 2005										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1470	Phillips/Baggett	YES	29.59	5	3.9 miles	8 minutes	8 minutes	n/a	n/a	n/a
RZN 05-1471	Phillips/Baggett		36.99	5	3.9 miles	8 minutes	8 minutes	34	13	20
RZN 05-1479	Wimberly		0.26	4	2 miles	7 minutes	7 minutes	n/a	n/a	n/a

→ ANTICIPATED 5-6 MINUTE RESPONSE TIME FROM FUTURE STATION #3



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 3
ANX 05-1470 (Phillips/Baggett)
Page 12 of 28

POLICE DEPARTMENT

May 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1470 (PHILLIPS/BAGGETT, 571): submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE ROAD would substantially alter the population density and thereby undesirably increase the load on public services and created an appreciable increase in traffic danger and congestion. This property is in the planning area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to RZN 05-1471 (PHILLIPS/BAGGETT, 571): submitted by submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, four units per acres.

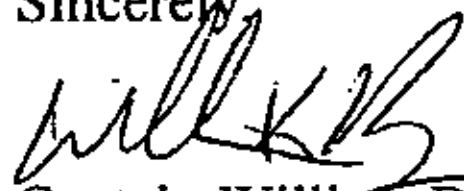
It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the outer boundaries of our current service area. The potential of creating 147 new homes will increase the traffic on an already congested arterial roadway, (Huntsville Road.)

In reference to ~~RZN 05-1479: (WIMBERLY, 368):~~ Submitted by DAVID & SALLY WIMBERLY, for property located at 155 E. ELM STREET. The property is zoned RSF-4, SINGLE FAMUKY-4 UNITS/ACRES and contains approximately 0.26 acres. The request is to rezone the subject property to ~~R-O, Residential Office.~~

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion.

Sincerely,



Captain William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: ANX 05-1470 Phillips/Baggett Return by: 4.15
Parcel:

Plat Page#: 571
Section: 20
Township: 16
Range: 20

Current Zoning: County
Proposed Zoning: R-A

Submittal: 1st 2nd 3rd

Closure error / comments: TYPO IN 'ENTIRE' TRACT DESCRIPTION,
SEE LEGAL.

Has the applicant been contacted with requested revisions: YES NO

Checked by: CR

Date shape file was created: 4-7-2005

PROPERTY TO BE ANNEXED (ENTIRE)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET TO THE P.O. B., THENCE N00°15'34"E 1370.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S87°44'26"E 262.75 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1421.62 FEET, THENCE S89°52'59"W 294.91 FEET, THENCE S89°52'59"W 635.48 FEET TO THE P. O.B.; CONTAINING 29.59 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD. 1446.62

PROPERTY TO BE ANNEXED (TRACT 1)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET TO THE P.O.B., THENCE N00°15'34"E 1370.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S00°15'34"W 1440.54 FEET, THENCE S89°52'59"W 635.48 FEET TO THE P.O.B.; CONTAINING 19.87 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE ANNEXED (TRACT 2)

PART OF THE W1/2 NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET, THENCE N89°52'59"E 635.48 FEET TO THE P.O.B., THENCE N00°15'34"E 1440.54 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1446.62 FEET, THENCE S89°52'59"W 294.91 FEET TO THE P.O.B.; CONTAINING 9.72 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE REZONED (ENTIRE)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW THENCE N00°15'34"E 1705.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1781.62 FEET, THENCE N89°44'26"W 294.90 FEET, THENCE S89°42'31"W 635.50 FEET TO THE P.O.B.; CONTAINING 36.99 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE REZONED (TRACT 1)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 1705.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S00°15'34"W 1773.60 FEET, THENCE S89°42'31"W 635.50 FEET TO THE P.O.B.; CONTAINING 25.01 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE REZONED (TRACT 2)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON
COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE S89°42'31"E 635.50
FEET TO THE P.O.B. THENCE N00°15'34"E 1773.60 FEET, THENCE
S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE
S00°15'34"W 1781.62 FEET, THENCE N89°44'26"W 294.90 FEET TO THE
P.O.B.; CONTAINING 11.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND
RIGHT OF WAY RECORD.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

**IN THE MATTER OF:
ANNEXING TO THE CITY OF FAYETTEVILLE,
ARKANSAS, CERTAIN LANDS CONTIGUOUS
TO SAID CITY OF FAYETTEVILLE, WASHINGTON COUNTY,
ARKANSAS**

**KEVIN PHILLIPS and LAURA PHILLIPS,
Husband and Wife and
CAROLYN BAGGETT, a Single Person**

FILED
2005 FEB 14 2005
KAREN COMBES PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.
Case No. 05-1470
PETITIONERS

PETITION FOR ANNEXATION

Come now, **KEVIN PHILLIPS and LAURA PHILLIPS**, husband and wife, and **CAROLYN BAGGETT**, a Single Person, Petitioners, and for their Petition for Annexation state as follows:

1. Petitioner, **CAROLYN BAGGETT**, a single person, is the sole record owner of the following described property situated in Washington County, Arkansas, to-wit:

Tract 1: Part of the W1/2, NW1/4 of Section 20, T16N, R29W in Washington County, Arkansas, and being more particularly described as follows: Commencing at the SW Corner of said NW 1/4 thence N00°15'34"E 335.00 feet to the P.O.B., thence N00°15'34"E 1370.44 feet, thence S84°14'26"E 412.50 feet, thence N63°15'34"E 250.79 feet, thence S87°44'26"E 1.41 feet, thence S00°15'34"W 1440.54 feet, thence S89°52'59"W 635.48 feet to the P.O.B.; Containing 19.87 acres, more or less, subject to Easements and Right of Way Record.

2. Petitioners, **KEVIN PHILLIPS and LAURA PHILLIPS**, husband and wife, are the sole record owners of the following described property situated in Washington County, Arkansas, to-wit:

Tract 2: Part of the W1/2, NW1/4 of Section 20, T16N, R29W in Washington County, Arkansas and being more particularly described as follows: Commencing at the SW Corner of said NW 1/4 thence N00°15'34"E 335.00 feet, thence N89°52'59"E 635.48 feet to the P.O.B., thence N00°15'34"E 1440.54 feet, thence S87°44'26"E 262.73 feet, thence N62°15'34"E 36.61 feet, thence S00°15'34"W 1446.62 feet, thence S89°52'59"W

294.91 feet to the P.O.B.; Containing 9.72 acres more or less subject to Easements and Right of Way Record.

3. Said properties are depicted on the Plat of Survey dated February 1, 2005, prepared by Jorgensen & Associates, Civil Engineers & Surveyors, a copy of which is attached hereto as Exhibit "A" and made a part hereof by reference.

4. All of the above-described property is adjacent and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas.

5. A true and correct copy of the Vicinity Map of the above-described property is attached hereto as a part of Exhibit "A" and made a part hereof by reference.

6. The above-described property is suitable for annexation to the City of Fayetteville, Arkansas, and is necessary for the proper growth, prosperity and management of the above-described property and the City of Fayetteville, Arkansas.

7. Pursuant to Arkansas Code Annotated §14-40-601 et seq, this Court has jurisdiction over the subject matter herein, and Petitioners request that the above-described property be annexed to the City of Fayetteville, Arkansas.

8. Petitioners further state that the law firm of Harrington, Miller, Neihouse & Kieklak, P.A., Springdale, Arkansas, is authorized to act for and on behalf of the Petitioners in all matters connected with this Petition and subsequent hearings or annexation proceedings connected therewith.

9. Petitioners request that this Court set a date for hearing this Petition, not less than thirty (30) days after the date of the filing of this Petition, pursuant to Arkansas law.

WHEREFORE, Petitioners pray that the above-described property be annexed to the City of Fayetteville, Washington County, Arkansas, pursuant to the provisions of Arkansas law, after a hearing thereon as required by law; and that this Court, by its Order, fix a time and place for said hearing not less than thirty (30) days from the filing of this Petition; and for all other proper relief

to which Petitioners may be entitled.

KEVIN PHILLIPS and LAURA PHILLIPS,
Husband and Wife, and
CAROLYN BAGGETT, a Single Person,
Petitioners

HARRINGTON, MILLER, NEIHOUSE
& KIEKLAK
A Professional Association
113 East Emma Avenue
Post Office Box 687
Springdale, Arkansas 72765
(479) 751-6464
Attorneys for Petitioners

By: *Michele A. Harrington*
Michele A. Harrington
Arkansas Bar No. 85217

VERIFICATION

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

We, KEVIN PHILLIPS and LAURA PHILLIPS, Husband and Wife, Petitioners
herein, hereby state under oath that we have read the above and foregoing Petition for
Annexation, and that the facts and allegations contained therein are true and correct to the best of
our knowledge and belief.

Kevin Phillips
KEVIN PHILLIPS

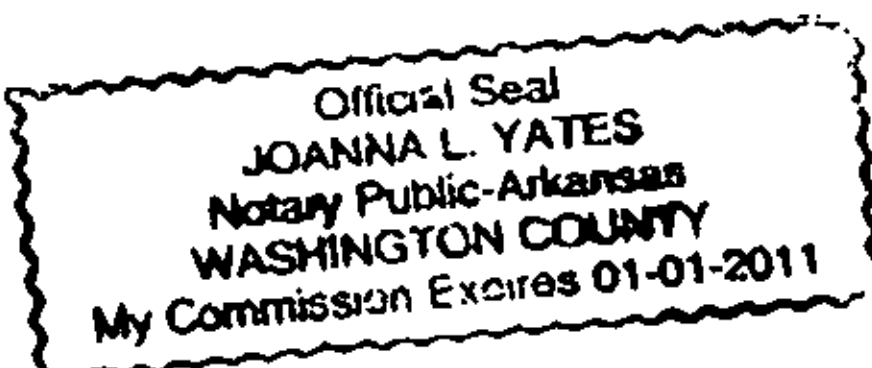
Laura Phillips
LAURA PHILLIPS

SUBSCRIBED AND SWORN to before me, a Notary Public, this 10th day of
February, 2005.

My Commission Expires:

1-1-11

Joanna L. Yates
Notary Public



VERIFICATION

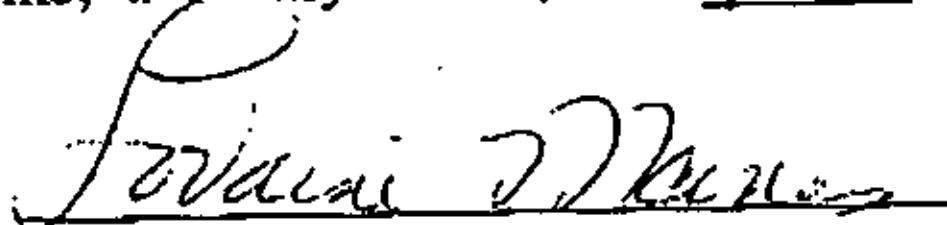
STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

I, **CAROLYN BAGGETT**, a single person, Petitioner herein, hereby state under oath that I have read the above and foregoing Petition for Annexation, and that the facts and allegations contained therein are true and correct to the best of our knowledge and belief.


CAROLYN BAGGETT

SUBSCRIBED AND SWORN to before me, a Notary Public, this 10th day of February, 2005.

My Commission Expires:

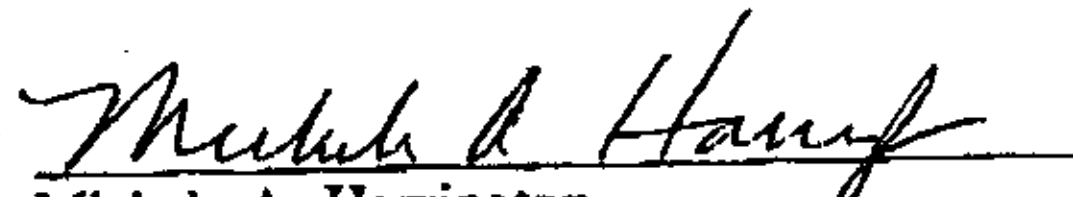

Notary Public

6-27-2010

Lovaine Jones
NOTARY PUBLIC
Benton County, Arkansas
My Commission Exp. 6-27-2010

CERTIFICATE OF SERVICE

I, Michele A. Harrington, attorney for petitioners herein, hereby certify that I have served a true copy of the within and foregoing on the City Clerk for the City of Fayetteville, Arkansas, by placing a copy thereof in the U. S. Mail, postage prepaid, addressed to her mailing address in Fayetteville, Arkansas, this the 10 day of February, 2005.


Michele A. Harrington

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

FILED
2005 MAR 21 AM 11:03
KAREL COMBS PRITCHARD
CO. PROBATE CLERK
WASHINGTON CO. ARK.
Case No. CC 2005-5

DECREE OF ANNEXATION

Now on this 21st day of March, 2005, this cause comes on to be heard, the Petitioners, Petitioners, Kevin Phillips and Laura Phillips, husband and wife, and Carolyn Baggett, a single person, through their attorney, Michele A. Harrington of Harrington, Miller, Neihouse & Kieklak, P.A., of Springdale, Arkansas, announcing ready for a hearing of the cause and there being no protests or objections filed, whereupon, the matter is submitted to the Court upon the verified petition filed herein, and any oral and documentary evidence adduced, the Court being well and sufficiently advised of the facts and the law, doth hereby find, judge and decree as follows:

1. The Petition in this cause was filed on February 14, 2005, at which time this Court fixed Monday, March 21, 2005, at 10:00 a.m., as the date and time of hearing for said cause, and that a full thirty (30) days has passed since the filing of the Petition, and this Court has jurisdiction of the persons and subject matter of this cause of action, and venue is proper herein.

2. The Petition filed herein named Harrington, Miller, Neihouse & Kieklak, P.A. to act on behalf of Petitioners in filing and presenting the Petition to the Court and handling all matters connected with the Petition, as well the required notices, and this and any other hearings or annexation proceedings connected therewith.

3. Harrington, Miller, Neihouse & Kieklak, P.A. has given Notice of hearing on the Petition as required by law, and the proof of publication of said notice is now on file with the Clerk of this Court.

4. The Court is satisfied that the allegations of the Petition filed herein are sustained by the proof, and that a majority of the total number of real estate owners in the area affected by this Petition have signed said Petition, and that such majority owns more than one-half (1/2) of the acreage affected.

5. The land and territory sought to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described as follows:

Tract 1: Owned by Baggett - Part of the W1/2, NW1/4 of Section 20, T16N, R29W in Washington County, Arkansas, and being more particularly described as follows: Commencing at the SW Corner of said NW 1/4 thence N00°15'34"E 335.00 feet to the P.O.B., thence N00°15'34"E 1370.44 feet, thence S84°14'26"E 412.50 feet, thence N63°15'34"E 250.79 feet, thence S87°44'26"E 1.41 feet, thence S00°15'34"W 1440.54 feet, thence S89°52'59"W 635.48 feet to the P.O.B.; Containing 19.87 acres, more or less, subject to Easements and Right of Way Record.

Tract 2: Owned by Phillips - Part of the W1/2, NW1/4 of Section 20, T16N, R29W in Washington County, Arkansas and being more particularly described as follows: Commencing at the SW Corner of said NW 1/4 thence N00°15'34"E 335.00 feet, thence N89°52'59"E 635.48 feet to the P.O.B., thence N00°15'34"E 1440.54 feet, thence S87°44'26"E 262.73 feet, thence N62°15'34"E 36.61 feet, thence S00°15'34"W 1446.62 feet, thence S89°52'59"W 294.91 feet to the P.O.B.; Containing 9.72 acres more or less subject to Easements and Right of Way Record.

and, the same is accurately described in the Petition filed herein.

6. Attached to and made a part of said Petition is an accurate Vicinity Map of the above-described property that is sought to be annexed to the City of Fayetteville, Arkansas.

7. The above-described property owned by the Petitioners, Kevin Phillips and Laura Phillips, husband and wife, and Carolyn Baggett, is adjacent and contiguous to the present city boundary line for the City of Fayetteville, Washington County, Arkansas, and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

8. The prayer of the Petition filed herein is right and proper and should be granted.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Act No. 1 of the acts of the Legislature of 1875 of the State of Arkansas and all acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1963, as codified in Ark. Code Ann. §14-40-601, et seq.

IT IS FURTHER CONSIDERED, ORDERED AND ADJUDGED that the original papers in this cause be delivered to the Clerk of Washington County, Arkansas, with the same to be properly recorded upon the records of Washington County, Arkansas, and the Clerk, after properly recording and filing the original papers, is directed to prepare certified transcripts of the same; that one of the certified transcripts shall be delivered to the City of Fayetteville, Arkansas, one copy to

the Secretary of State, and one copy to the Director of the Tax Division of the Arkansas Public Service Commission.


JERRY HUNTON, County Judge

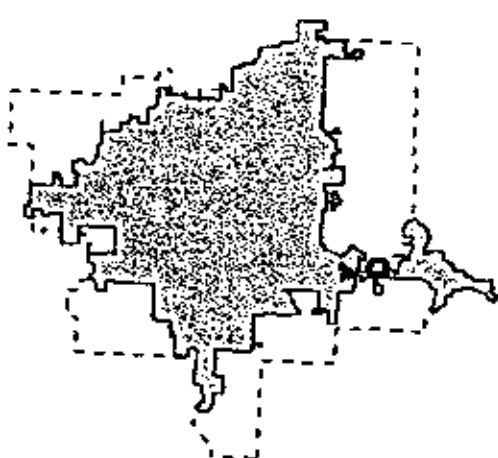
ANX05-1470

Close Up View

PHILLIPS/BAGGETT



Overview



Legend

ANX05-1470

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

BaseLine Profile

500 YEAR

100 YEAR

BaseLine Profile

Fayetteville

Outside City



PHILLIPS/BAGGETT

[illegible]

ANX05-1470

☐ Outside City

◆◆◆◆ Historic Collector

0.5

0.75

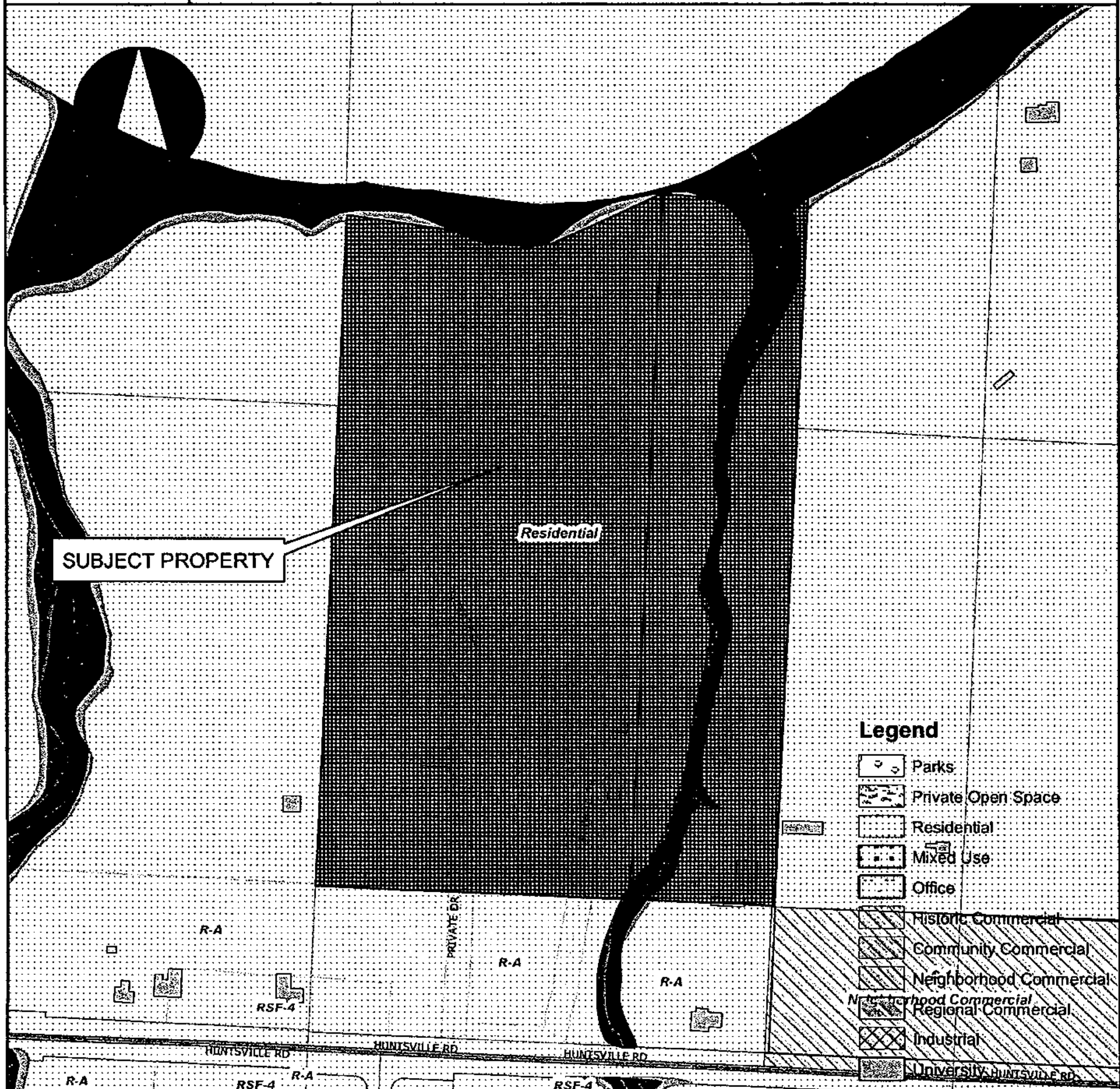
1

Miles

ANX05-1470

Future Land Use

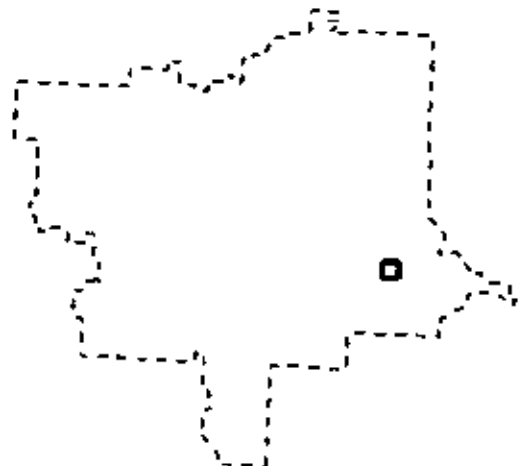
PHILLIPS/BAGGETT



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University Huntsville Rd

Overview



Legend

- Subject Property**
 - ANX05-1470
- Streets**
 - Existing
 - Planned
- Boundary**
 - Planning Area
 - Overlay District
 - Outside City
- Master Street Plan**
 - Freeway/Expressway
 - Principal Arterial
 - Minor Arterial
 - Collector
 - Historic Collector



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 3
ANX 05-1470 (Phillips/Baggett)
Page 27 of 28

7-Jun-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1470: (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5270 E HUNTSVILLE RD. The property is in the Planning Area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-20-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

5-23-05

Original Contract Number: n/a


Finance and Internal Service Director

5-25-05
Date

Received in City Clerk's Office




Mayor

5/26/05
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: May 20, 2005

Subject: Rezoning for Phillips/Baggett (RZN 05-1471)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 36.99 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

BACKGROUND

The subject property contains 36.99-acres owned by the Phillips and Baggett. It is located north of Huntsville Road (Hwy 16 East) and Sequoyah Meadows Subdivision. Property to the east is owned by the Lanes and currently under consideration for annexation into the City of Fayetteville. At this time, the property is currently used for single family and agricultural uses. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river bisects the eastern portion of the property. With approval of ANX 05-1470, the northern 29.59 acres will be zoned R-A, Residential Agricultural, and the 7.4 acres currently within the city is zoned R-A, Residential Agricultural.

The subject property contains properties owned by Phillips and Baggett. According to the letter submitted by the applicant, the owner of the larger 25.01-acre tract intends to develop this property for single family use at a maximum density of 4 units per acre. The owner of the smaller 11.98-acre tract does not have intentions to develop at this time. The request is to rezone both tracts of property RSF-4, Residential Single-family, 4 units per acre.

Staff recommended approval of the request to rezone the subject property RSF-4. No public comment was received regarding this request.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. The Planning Commission voted 7-2-0 to forward this item to the City Council with a recommend in favor of the rezoning, with Commissioners Ostner and Clark voting no.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1471 FOR APPROXIMATELY
36.99 ACRES LOCATED AT 5150 AND 5270 EAST
HUNTSVILLE ROAD FROM R-A, RESIDENTIAL-
AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, 4
UNITS PER ACRE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the zone classification of the following described
property is hereby changed as follows:

**From R-A, Residential-Agricultural, to RSF-4 Residential Single-Family, 4
units per acre, as shown in Exhibit "A" attached hereto and made a part hereof.**

Section 2. That the official zoning map of the City of Fayetteville,
Arkansas, is hereby amended to reflect the zoning change provided in Section 1
above.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

**By: _____
DAN COODY, Mayor**

ATTEST:

**By: _____
Sondra Smith, City Clerk**

EXHIBIT "A"
RZN 05-1471

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF SAID NW THENCE N00°15'34"E 1705.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1781.62 FEET, THENCE N89°44'26"W 294.90 FEET, THENCE S89°42'31"W 635.50 FEET TO THE P.O.B.; CONTAINING 36.99 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

DRAFT



PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 4, 2005

RZN 05-1471: Rezoning (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5279 E HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>May 09, 2005</u>	Motion to App: Trumbo/Graves ² 7-2-0 with Ostrer + Clark Voting no.
CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>June 07, 2005 (1st reading if recommended)</u>	

BACKGROUND:

Property description: The subject property contains part of two tracts totaling 36.99-acres owned by the Phillips and Baggett. It is located north of Huntsville Road (Hwy 16 East) and Sequoyah Meadows Subdivision. Property to the east is owned by the Lanes and currently under consideration for annexation into the City of Fayetteville. At this time, the property is currently used for pasture with several single family homes located on the property. It is within the Planning Area and adjacent to the City limits along the southern property line and east property line should the proceeding ANX 05-1451 be approved by the City Council. The West Fork of the White River is the northern boundary of the subject property, and a tributary of this river bisects the eastern portion of the property. With approval of ANX 05-1470, the northern 29.59 acres will be zoned R-A, Residential Agricultural, and the 7.4 acres currently within the city is zoned R-A, Residential Agricultural.

Proposal: The developer intends to develop this property for single family use at a maximum density of 4 units per acre. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RSF-4. The proposed zoning is compatible with the General Plan 2020 and the surrounding developed properties currently within the City of Fayetteville.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	West Fork of the White River; pasture	Planning Area
South	Vacant/Pasture	R-A, Residential Agricultural
East	Vacant/Pasture	Planning Area (RSF-4, Res. Single Family – 4 units/acre proposed)
West	Single Family Home; pasture	Planning Area

INFRASTRUCTURE:

Streets: Currently the site has access to East Huntsville Road. Road improvements per AHTD, City of Fayetteville, and dedication per the master street plan are required.

Surrounding Master Street Plan Streets:

South: Huntsville Rd (Principal Arterial)

East: Mally Wagon (Collector), Country Ridge and Deerfield Way (Local)

Water: Public water is adjacent to the site. There is an 8" main along East Huntsville Road. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete a looped system. This may include an off-site connection to be determined at a later date.

Sewer: The site has access sanitary sewer. There is a 6" sewer main along the east half of the property. Sewer will need to be extended within the property at the time of development. A capacity analysis of the sewer lines and/or lift stations downstream of the site shall be conducted prior to development.

Fire: The subject property is located approximately 3.9 miles from the Fire Station #5. Response time to the property is 8 minutes with a projected response time at full build-out to be approximately 8 minutes with 34 annual calls for service. This does not take into account the decreased response time for the future Fire Station at the Tyson complex on Huntsville Road.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable

increase on police services. This rezoning will increase our response time to calls for service because this property is on the outer boundaries of our current service area. The potential of creating 147 new homes will increase the traffic on an already congested arterial roadway, (Huntsville Road).

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as **Residential.**

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The majority of property adjacent to the subject property is located within the Planning Area and consists of large tracts of land developed for single family and agricultural uses. Deerfield Place (RSF-4 and R-O) and Sequoyah Meadows (RSF-4) are a few of the surrounding properties within the city which have been subdivided for single family use. Development of the subject 36.99 acres is consistent with surrounding developments.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Should the annexation request for the 29.59 acres north of the existing city limits be approved, the property is zoned R-A by default. The applicant is requesting consideration of rezoning this property and the property currently within the City of Fayetteville to RSF-4 for future development. Staff finds that this zoning is compatible with the General Plan 2020 and surrounding developments within the City.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The additional density will create an increase in the amount of traffic currently utilizing Huntsville Road and intersecting streets. The West Fork of the White River to the north of this and surrounding properties may prevent a northern street connection. No north-south street connection is identified on the Master Street Plan between Mally Wagnon Road and Starr Drive, an unconstructed street. Staff recommends connectivity between future development of this property and surrounding properties to allow for many alternative routes of travel to Huntsville Road.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning will increase population density from that zoning currently in place. The 36.99 acre tract under an R-A zoning designation would allow for a maximum 18 single family residential dwelling units. With the proposed RSF-4 designation, a maximum of 147 single family dwelling units would be permitted.

Increased load on public services were taken into consideration and recommendations from Engineering, Police and Fire Department are included in this report.

Police Comments: It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the outer boundaries of our current service area. The potential of creating 147 new homes will increase the traffic on an already congested arterial roadway, (Huntsville Road).

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b.(1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

K:\Reports\2005\PC Reports\05-09-05\RZN 05-1471 (Phillips & Baggett).doc

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

Fayetteville Fire Department Service Delivery Impact: Zoning Review April 26, 2005										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1470	Phillips/Baggett	YES	29.59	5	3.9 miles	8 minutes	8 minutes	n/a	n/a	n/a
RZN 05-1471	Phillips/Baggett		36.99	5	3.9 miles	8 minutes	8 minutes	34	13	20
RZN 05-1479	Wimberly		0.26	4	2 miles	7 minutes	7 minutes	n/a	n/a	n/a

*



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 4
RZN 05-1471 (Phillips/Baggett)
Page 10 of 24

POLICE DEPARTMENT

May 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1470 (PHILLIPS/BAGGETT, 571): submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE ROAD would substantially alter the population density and thereby undesirably increase the load on public services and created an appreciable increase in traffic danger and congestion. This property is in the planning area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to RZN 05-1471 (PHILLIPS/BAGGETT, 571): submitted by submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, four units per acres.

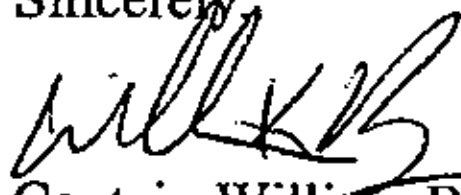
It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the outer boundaries of our current service area. The potential of creating 147 new homes will increase the traffic on an already congested arterial roadway, (Huntsville Road.)

In reference to RZN 05-1479: (WIMBERLY, 368): Submitted by DAVID & SALLY WIMBERLY, for property located at 155 E. ELM STREET. The property is zoned RSF-4, SINGLE FAMUKY-4 UNITS/ACRES and contains approximately 0.26 acres. The request is to rezone the subject property to R-Q, Residential Office.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion.

Sincerely,



Captain William Brown
Fayetteville Police Department

Rezoning Application

5. A written description of this request addressing the following items:

a. Current ownership information and any proposed or pending property sales.

**Tract 1 is owned by:
Carolyn Baggett
5150 Huntsville Rd.
Fayetteville, AR 72701**

**Tract 2 is owned by Kevin and Laura Phillips.
5270 E. Huntsville Rd.
Fayetteville, AR 72701**

There are no pending property sales. This property would be divided into lots, which will be sold for residential construction.

b. Reason (need) for requesting the zoning change.

The zoning change is requested to allow this property to be subdivided into residential lots not to exceed 4 lots/acre.

c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

There are only approximately 70 lots proposed in Tract 1 at this time, and Tract 2 will not be platted in the near future, and therefore this development will not appreciably increase traffic danger and congestion on Highway 16. The appearance of the houses to be built would be compatible with existing houses in the area. The only signage would be an entry sign with the subdivision name on it.

d. Availability of water and sewer (state size of lines). This information is available from the City Engineering Division.

There is a 6" sewer line running from the South part of the property to the North. It is located just East of Tract 1 and runs through Tract 2. The 6" line connects to a 10" line just North of the property. There is an 8" water line running along the South border of the property.

Rezoning Application

6. The Planning Commission is required to make specific findings with regard to this application. The applicant shall provide written statements addressing the following:

- a. The degree to which the proposed zoning is consistent with land use planning objectives, principals, and policies and with land use and zoning plans.

This is an opportunity for the City to have these two parcels of highway frontage, where growth is rapidly occurring, within the City's control so that it will develop to City standards.

- b. Whether the proposed zoning is justified and/or needed at the time of the request.

The rezoning is needed facilitate and control residential expansion in Fayetteville to the southeast.

- c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

There are only approximately 70 lots proposed in Tract 1 at this time, and Tract 2 will not be platted in the near future, and therefore this development will not appreciably increase traffic danger and congestion on Highway 16. We understand that Highway 16 is scheduled for improvements by the State.

- d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

According to the engineer, the water and sewer lines available for this subdivision are adequate to support the number of lots proposed.

- e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The existing zoning is Agricultural (R-A). It is appropriate to rezone to residential before residential development would take place.

- f. **Note:** The legal descriptions for the rezoning are not identical to those for the annexation for the reason that highway frontage has already been annexed by the City of Fayetteville.

PROPERTY TO BE ANNEXED (ENTIRE)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET TO THE P.O. B., THENCE N00°15'34"E 1370.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S87°44'26"E 262.75 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1421.62 FEET, THENCE S89°52'59"W 294.91 FEET, THENCE S89°52'59"W 635.48 FEET TO THE P. O.B.; CONTAINING 29.59 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE ANNEXED (TRACT 1)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET TO THE P.O.B., THENCE N00°15'34"E 1370.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S00°15'34"W 1440.54 FEET, THENCE S89°52'59"W 635.48 FEET TO THE P.O.B.; CONTAINING 19.87 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE ANNEXED (TRACT 2)

PART OF THE W1/2 NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 335.00 FEET, THENCE N89°52'59"E 635.48 FEET TO THE P.O.B., THENCE N00°15'34"E 1440.54 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1446.62 FEET, THENCE S89°52'59"W 294.91 FEET TO THE P.O.B.; CONTAINING 9.72 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE REZONED (ENTIRE)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW THENCE N00°15'34"E 1705.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE S00°15'34"W 1781.62 FEET, THENCE N89°44'26"W 294.90 FEET, THENCE S89°42'31"W 635.50 FEET TO THE P.O.B.; CONTAINING 36.99 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

PROPERTY TO BE REZONED (TRACT 1)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE N00°15'34"E 1705.44 FEET, THENCE S84°14'26"E 412.50 FEET, THENCE N63°15'34"E 250.79 FEET, THENCE S87°44'26"E 1.41 FEET, THENCE S00°15'34"W 1773.60 FEET, THENCE S89°42'31"W 635.50 FEET TO THE P.O.B.; CONTAINING 25.01 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT
K. L. Baggett
Applicant's Signature



parcel closes

submitted as: RZN 05-1471

4/8/05

ENTIRE

TJ

PROPERTY TO BE REZONED (TRACT 2)

(R-A TO RSF-4)

PART OF THE W1/2, NW1/4 OF SECTION 20, T16N, R29W IN WASHINGTON
COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SW CORNER OF SAID NW1/4 THENCE S89°42'31"E 635.50
FEET TO THE P.O.B. THENCE N00°15'34"E 1773.60 FEET, THENCE
S87°44'26"E 262.73 FEET, THENCE N62°15'34"E 36.61 FEET, THENCE
S00°15'34"W 1781.62 FEET, THENCE N89°44'26"W 294.90 FEET TO THE
P.O.B.; CONTAINING 11.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND
RIGHT OF WAY RECORD.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

RECEIVED

MAR 31 2005

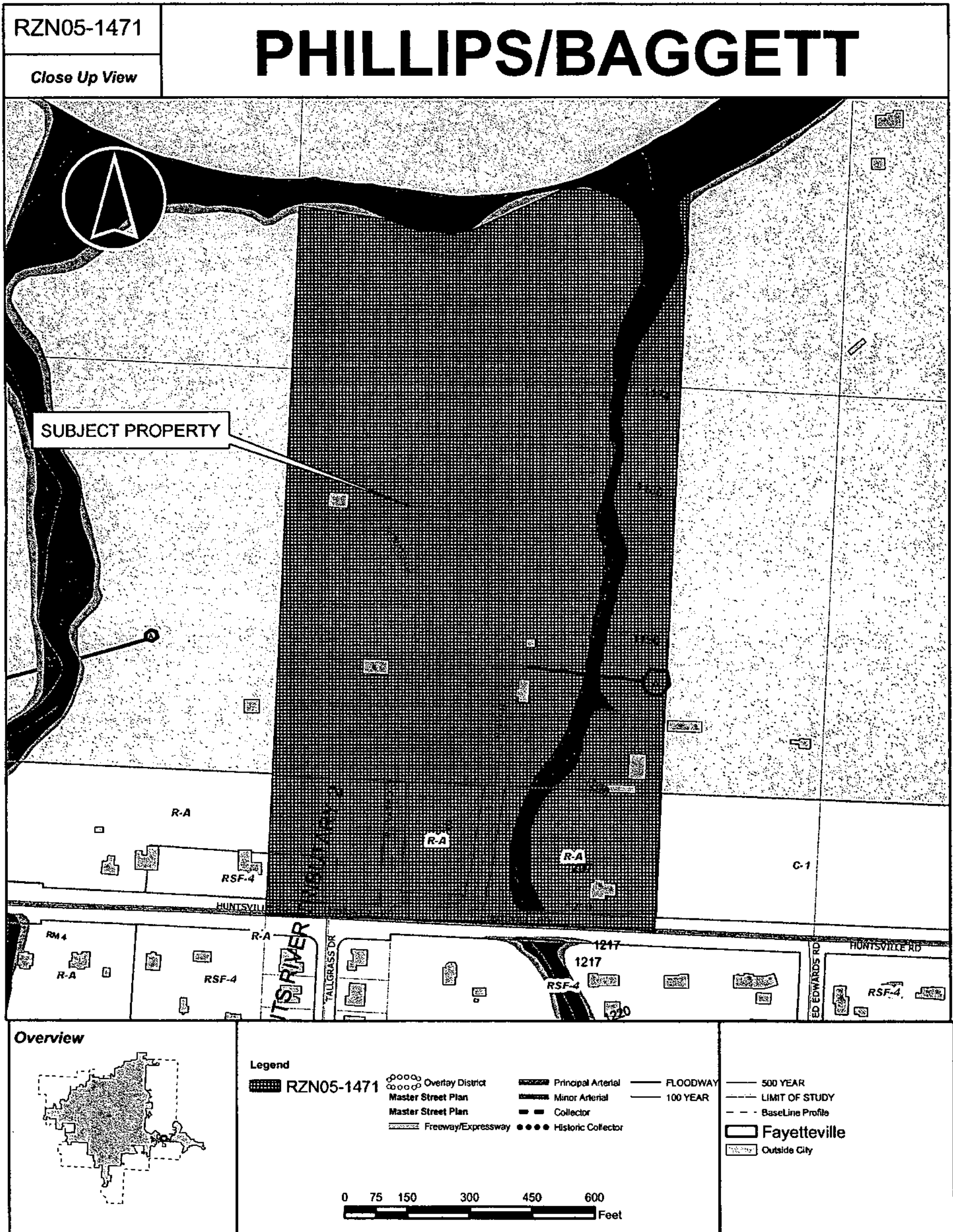
CITY OF FAYETTEVILLE
PLANNING DIVISION

parcel closes

submitted as: RZN05-1471

4/8/05

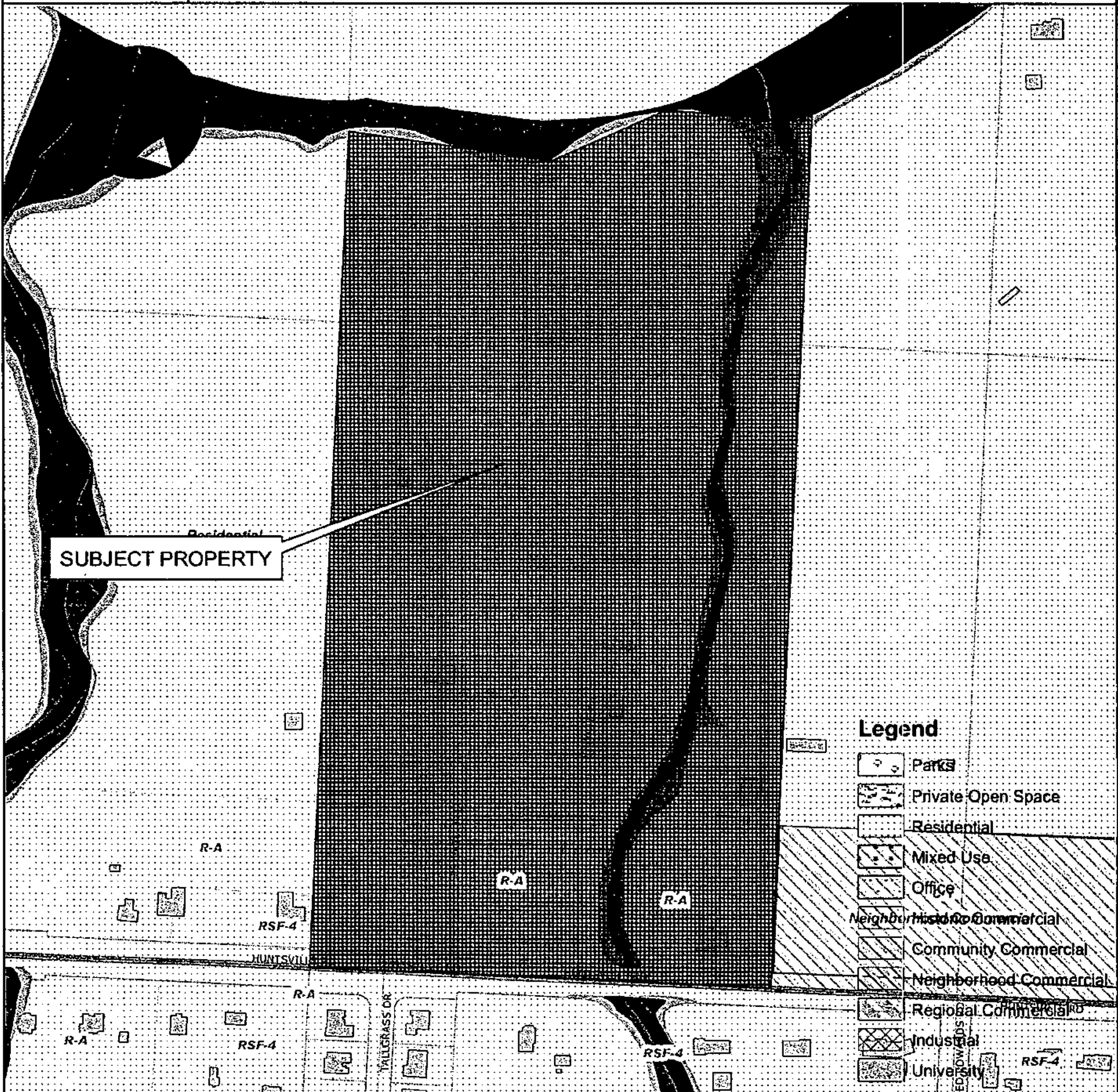
ENTIRE



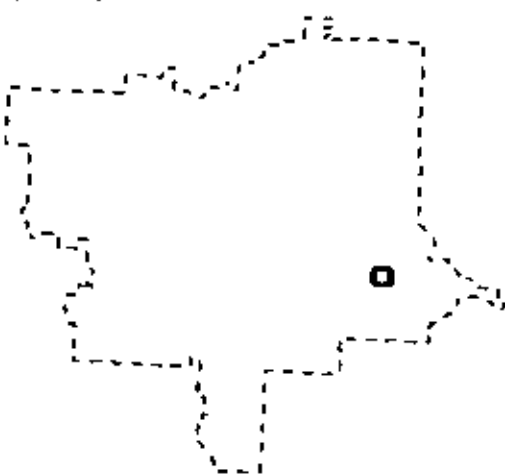
RZN05-1471

PHILLIPS/BAGGETT

Future Land Use



Overview



Legend

Subject Property

RZN05-1471

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 Outside City

Master Street Plan

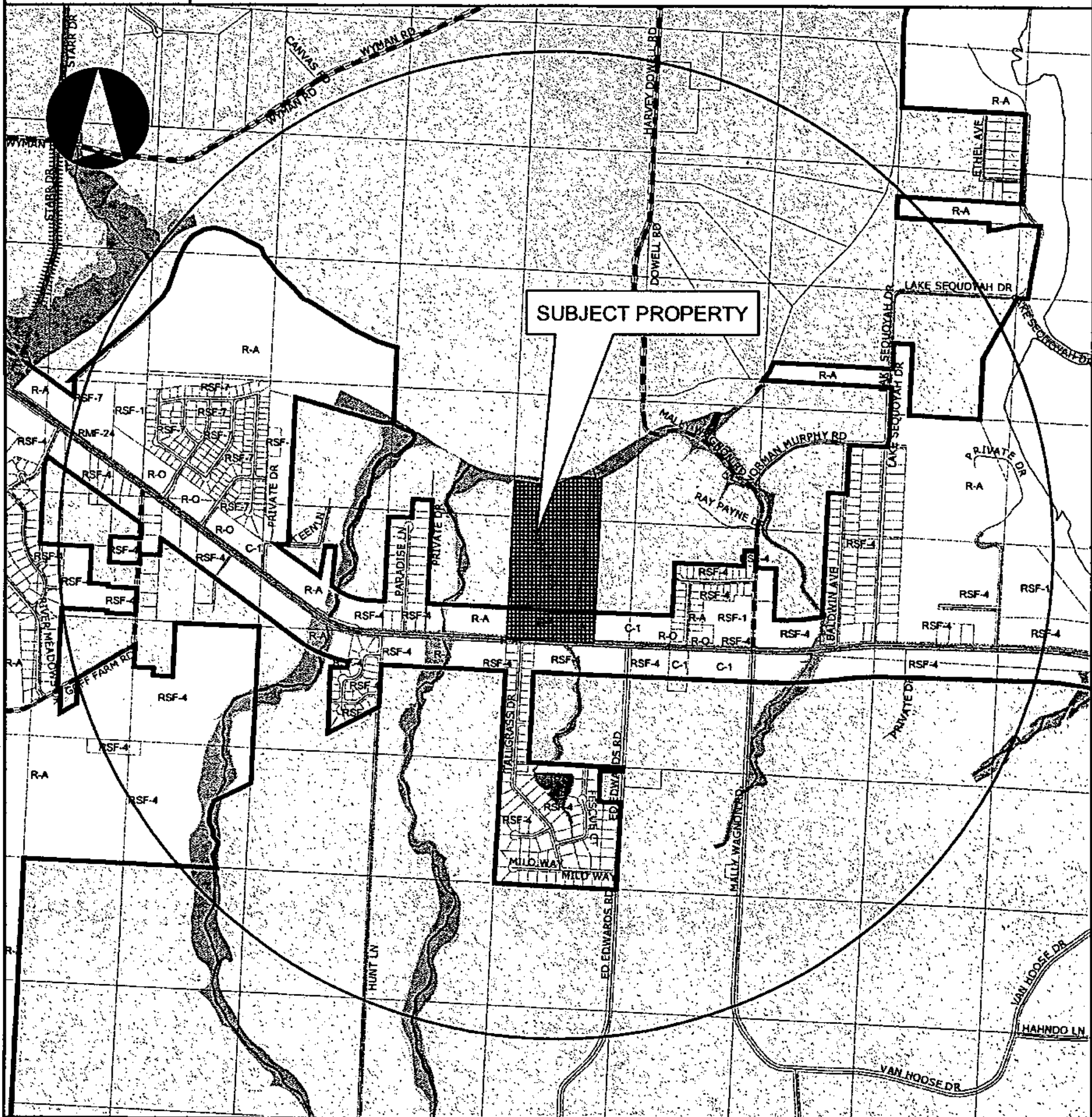
Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector



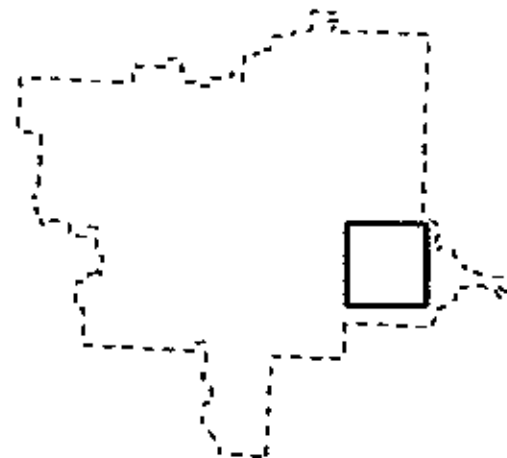
RZN05-1471

One Mile View

PHILLIPS/BAGGETT



Overview



Legend

Subject Property

RZN05-1471

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Planning Commission

May 9, 2005

Page 66

ANX 05-1470: Annexation (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5270 E HUNTSVILLE RD. The property is in the Planning Area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

RZN 05-1471: Rezoning (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5279 E HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Ostner: The next item on our agenda tonight is another annexation request, ANX 05-1470 for Phillips/Baggett, if we could have the staff report.

Morgan: Many of the items and findings for this annexation are similar to the annexation that we just heard. Actually, one of the reasons that the Lane annexation was tabled at the last meeting was so that it could come in with this item. This property is approximately 30 acres and it is located just west of the subject property which we just heard. It contains two pieces of property owned by the Phillips and the Baggett's. Staff finds that annexation of this property along with the adjacent property will create an appropriate boundary for the city abutting to the north of the river. We have found therefore, that we are recommending in favor of the annexation. As for the rezoning, it is somewhat of a similar situation as the previous application. The rezoning encompasses a portion of the property that is currently in the city. It is zoned R-A, Residential Agricultural at this time and is shown to be residential on the Future Land Use Plan. Therefore, staff is recommending for the RSF-4 zoning rezoning all of that property to RSF-4. Thank you.

Allen: Thank you. Is the applicant present?

Harrington: I am Mickey Harrington representing both the Baggett's and the Phillips who are here this evening. We made a significant effort early on talking to some people before they ever came forward with this project. We certainly spent time talking with the Police Department and were advised in our early contacts that there were absolutely no concerns. So when we saw the letter come through we were a little surprised because it was contrary to what we had been specifically told. The only thing that we can observe is that they did change personnel as to the persons writing these letters not too long ago. Captain Brown is now responding so I am thinking that as Commissioner Graves mentioned, the police may be telling you that as you grow you are going to need to be considering adding services in the Police Department to cover your growth. They did not tell these applicants don't bring that forward, we can't service that area. Of course, looking at the same map that you have with all of the

other developments out there and all of the land to the east of there that is already in the city, it does seem that it makes sense to me that long ago the city in the 1960's brought in this whole corridor out to Lake Sequoyah and I feel the long range plan would be that these lands would fill in over this corridor that was brought in so the city could control the growth along there. I know that there is also some concern about controlling the riparian corridor along the river. You are aware because of all the ones that come to you about the problems with County development and septic and the newer more untried community sewage systems that you have run into with other projects, the step system and all. I know that a lot of people have a lot of worries about how those are going to work. I would submit to you that this land will be in the city at some point and it certainly makes sense to bring this one in along with the Lane's property at this point and make it RSF-4 across the board. That will be the best way for the city to control this property and the services I believe will catch up as the growth occurs because this won't all happen over night. It will take some time. I think that the Phillips don't have any intent on moving fast and the Baggett's will be slower along with the development process in the same manner as Mr. Milholland's client moving on a pace that isn't immediate at one time. I believe that your city will make choices to keep the services at pace all over the place and city services including police will be able to handle this. We submit this to you for approval and are here to answer any questions that you have.

Ostner: At this point we will take public comment on two items, ANX 05-1470 for Phillips Baggett and RZN 05-1471 for the same piece of property. If anyone would like to speak to these issues please step forward and give us your comments. Seeing none, I will close the public comment session and bring it back to the Commission.

Clark: I am going to move that we approve ANX 05-1470 for reasons very similar to what we just did.

Myres: I will second.

Ostner: We have a motion and a second to forward this Annexation request, is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 05-1470 to the City Council was approved by a vote of 8-0-0.

Thomas: The motion carries.

Ostner: The tandem item is RZN 05-1471 for the same piece of property. We have already heard the staff report and the applicant's presentation. The request is to rezone from newly annexed area, R-A to RSF-4. Once again,

I will ask for public comment. If anyone would like to speak to this issue please step forward. Seeing none, I will close the public comment session and bring it back to the Commission.

Williams: Just one point of clarification, this also includes the R-A that was in front of that so it is slightly larger than the recently annexed area.

Ostner: Thank you Mr. Williams. Commissioners? This land is abutting the project we just discussed. Has anyone changed their mind from the last item?

MOTION:



Trumbo: I think that RSF-4 is appropriate zoning for this piece of property so I am going to go ahead and make a motion that we approve RZN 05-1471 agreeing with the findings of staff.

Graves: I will second.

Clark: I must admit I am mystified by the apparent flip flop of the Police Department that Ms. Harrington points out. Hopefully when this gets to the Council they can do a little more in depth research and hopefully make a better informed decision than I feel like I'm making right now.

Ostner: May I ask what flip flop you mean?

Clark: Ms. Harrington indicated that as they were talking about bringing this property in the Police had no problems with the rezoning and now they do so things have changed.

Ostner: The zoning of an annexation is R-A and that is what they look at with an annexation. They look at whatever one unit per two acres.

Clark: I am talking about the rezoning.

Ostner: I thought you were referring to the Police said ok to the annexation.

Clark: No, apparently with their discussion on the rezoning the police were supportive and now they aren't. That is the confusion I have and so hopefully the Council will have a little more time to do fact finding and find out what is going on.

Vaught: I agree with the rezoning, I know it sounds odd that we just said no right next door but for the reasons stated in the 2020 Plan I think is the difference that they called out that C-1. It is the decision that the City Council made then and it is a decision they can revisit when that appeal

Planning Commission
May 9, 2005
Page 69

goes forward. Just to emphasize, it is not a contradiction in our overall goal of mixed use along that corridor.

Ostner: I am going to vote against this tonight. I wondered how the Police Department would ever give us anything but a complete green light and the fact that they are at least warning us. I am going to read into the record what they say exactly. "It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services." It gives another sentence to support that. That is part of why I'm voting against this. I am reading the report that I've been given and that is the information that I have tonight. We need to wait on our eighth voting member who is taking a break. Is there further discussion?

Vaught: I think it is a chicken and egg situation when you talk about city services in these areas.

Ostner: There is a motion to forward RZN 05-1471, hearing no further discussion, could you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 05-1471 to the City Council was approved by a vote of 5-0-3 with Commissioners Ostner, Myres and Clark voting no.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 4
RZN 05-1471 (Phillips/Baggett)
Page 23 of 24

7-Jun-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1471: Rezoning (PHILLIPS/BAGGETT, 571): Submitted by MICHELE, A HARRINGTON for property located at 5150 AND 5279 E HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐☐


Department Director

5-20-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

5-23-05

Original Contract Number: n/a


Finance and Internal Service Director

5-25-05
Date

Received in City Clerk's Office




Mayor

5/26/05
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JK*

Date: May 20, 2005

Subject: Rezoning for Lane (RZN 05-1452 – Tract B)

RECOMMENDATION

The Planning Commission voted to deny the subject rezoning request rezoning approximately 6.68 acres of property from C-1, Neighborhood Commercial, to RSF-4, Residential Single Family – 4 units per acre. Planning Staff originally recommended denial of the rezoning request.

BACKGROUND

The subject property contains 6.68 acres owned by the Lanes. It is located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision in southeast Fayetteville. This property was incorporated into the City of Fayetteville in the 1960s when Lake Sequoyah, a primary water source, and a strip of property along Huntsville Road were annexed. It is currently zoned C-1 and designated Neighborhood Commercial on the Future Land Use Plan. The applicant owns an additional 24.191 acres of property north of the current city limits. A rezoning application was submitted to the Planning Division to rezone all 30.871 acres RSF-4. The Planning Commission modified its consideration of the property proposed to be rezoned, making separate motions regarding the request to rezone the 24.191-acre tract of property (Tract A) and the subject 6.68-acre tract of property (Tract B).

The applicant intends to develop this property for a single family subdivision similar in density and character to the surrounding subdivisions. The applicant requests a rezoning of the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family – 4 units per acre, to allow the development of a residential subdivision.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. The Planning Commission voted 8-0-0 to deny this item. The applicant has submitted an appeal of the Planning Commission decision to the City Clerk within the 10-day appeal period. (See applicant's appeal of Planning Commission decision.)

The original rezoning request was for a rezoning from the property annexed (24.191 acres, R-A) and that already in the city (6.68 acres, C-1). Staff recommended denial of

this request, finding that the C-1 property was appropriate in this area and met the Future Land Use policy of the city. The Planning Commission separated the original request into two recommendations: (1) Approval of the RSF-4 for the northern 24.191 acres; and (2) Denial of rezoning the existing C-1 to RSF-4.

See attached agenda items ANX 05-1451 (Lane) and RZN 05-1452 (Lane – Tract "A") for staff report, minutes, and supplementary information.

BUDGET IMPACT

None.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

May 12, 2005

Project No. E-745

FAYETTEVILLE

113 West Mountain

Fayetteville, Arkansas 72701

ATTN: Sondra Smith, City Clerk

**RE: Zoning Request denial, Forrest and Modyne Lane
RZN 05-1452: (LANE, 571)**

RECEIVED

MAY 13 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Dear City Clerk and City Council Members:

This correspondence is an Appeal to reverse the decision of the Planning Commission, made on May 9th, in denying re-zoning of a portion of the referenced property.

The Lane's ask that you, consider the current and true potential land use of this property. The Lanes are appreciative and agree with the consideration given by the Planning Commission in approving the property area requested for annexed into the City, zoning that portion RSF-4 (Single Family Residential at 4 Units per Acre). The Lanes disagree in the Planning Commission's decision to leave that area previously taken into the City along the Hwy. 16 corridor as currently reflected on 2020 plan as C-1.

The reason that this property appears as C-1 along the Hwy. 16 corridor, is the results of the previous land owner's desires, that never matured. And, at the pervious owner's request, not that it is currently the correct or best use of the property. Historically, commercial property thrives and is successful where there exists a residential population that supports it. Generally, successful commercial area locate at major four-way intersection, not at a strip on one side of a subdivision and Highway. Existing commercial properties along this corridor, over years have struggled and closed from Baldwin to the Hwy. 265 intersection. This project presents that opportunity and will aid in the survival of both existing and need for future commercial ventures to develop along this corridor. Other lands and opportunities will emerge for commercial use as the community's residential base grows. This property, developed for residential use at this time realistically offers solutions and is not contradictory to the General Plan 2020. The General Plan 2020 recognizes needs and is a guide that reflects planned residential growth that then supports planned commercial growth, allowing for adjustments, as is the purpose and nature of this request.

You are asked to take an candid look at the subject property and decide, is residential growth needed at this time in support the existing community or shall this property remain vacant for an extended period. Your guidance, wisdom, and understanding are requested.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

There is no knowledge that adjoining neighbors or the public have an objection against this request for re-zoning of the entire property to RSF-4. Denial of this request for re-zoning of the 6.68 acres fronting Hwy. 16 places a long term economic burden on the Lane's property and presents a financial restraint, restriction, on the potential developer and owners of those residential lots that adjoin strip commercial use property.

The appearance and results of long term C-1 strip use can be viewed at any of the existing commercial sites along this corridor between Baldwin and Hwy. 265.

Your positive consideration of this request is appreciated.

Respectfully Requested;

5/13/05
Date

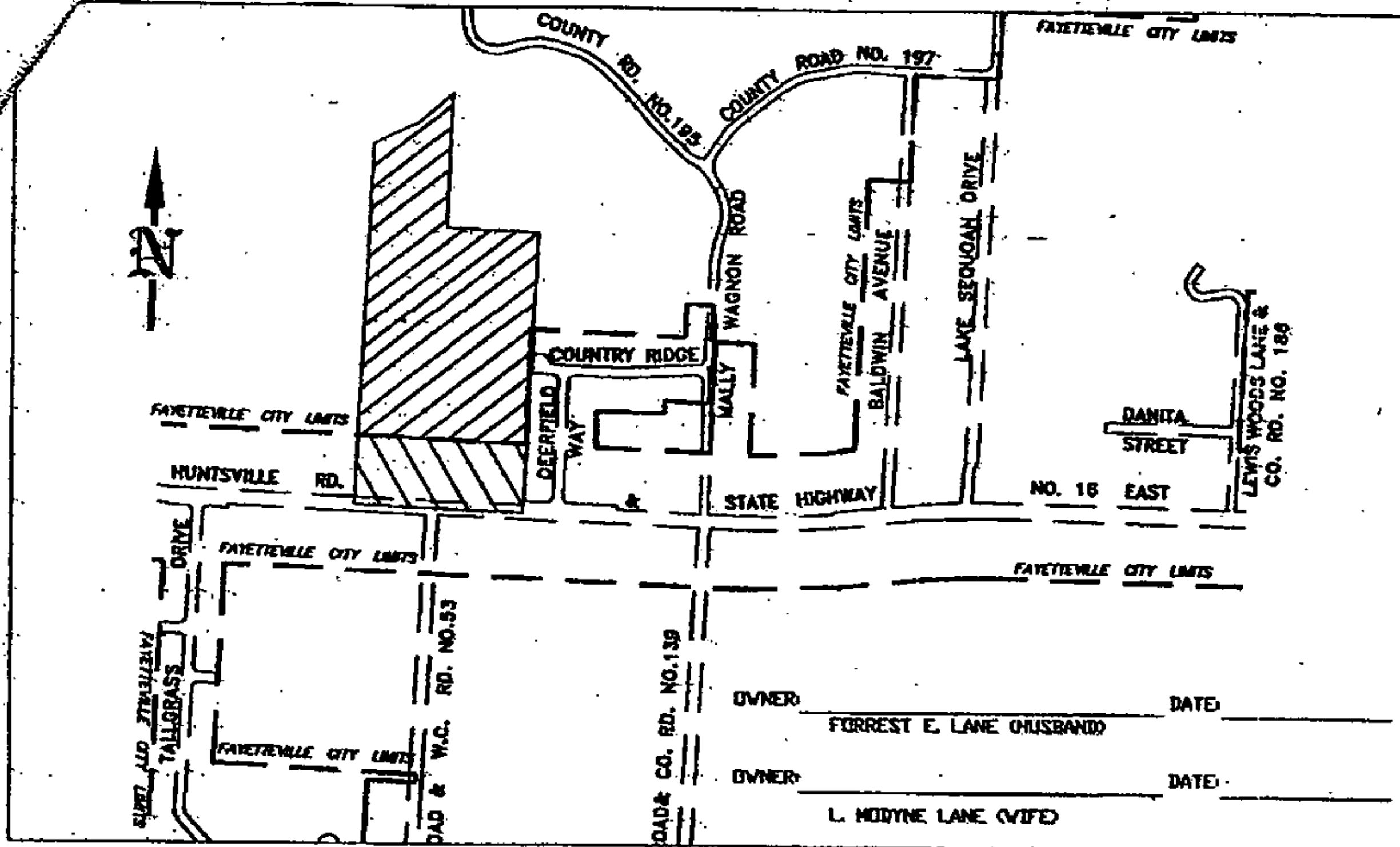
Forrest Lane
Forrest Lane

5/13/05
Date

Modyne Lane
Modyne Lane

cc: Suzanne Morgan, Planning Division

EXHIBIT "A"



REZONING VICINITY MAP E-745

REZONING DESCRIPTION: (REZONE ALL LANDS TO RSF-4)
REZONE FROM R-A TO RSF-4, THE FOLLOWING:
A PART OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W1/4) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW1/4), AND CONTINUING THENCE N02°40'06"E 350.01 FEET TO THE POINT OF BEGINNING; SAID POINT BEING THE INTERSECTION OF THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY AND THE WESTERN BOUNDARY OF A PARCEL OF LAND DESCRIBED AS TRACTS B & C IN A WARRANTY DEED FILED OF RECORD IN BOOK 1284, PAGES 240 AND 241, IN THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS.

THENCE N02°40'06"E 1441.44 FEET;
THENCE N82°08'56"E 246.16 FEET;
THENCE N53°32'58"E 213.11 FEET TO THE EAST BOUNDARY OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 20;
THENCE S02°32'24"W 884.64 FEET TO A POINT ON THE EAST BOUNDARY OF SAID NW1/4 OF THE NW1/4;
THENCE S87°16'57"E 448.50 FEET;
THENCE S02°41'09"W 1031.51 FEET TO THE EXISTING FAYETTEVILLE CITY LIMITS BOUNDARY;

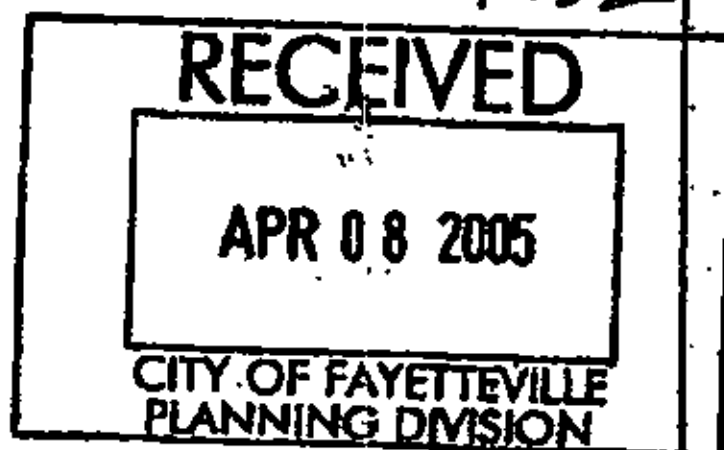
THENCE ALONG SAID CITY LIMITS BOUNDARY N87°38'06"W 827.08 FEET TO THE POINT OF BEGINNING, CONTAINING 24.191 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

AND REZONE EXISTING CITY PROPERTY TO RSF-4, AS FOLLOWS:
A PART OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE WEST QUARTER (W1/4) CORNER OF SAID SECTION 20 AND CONTINUING THENCE S87°27'31"E 930.97 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF SAID NORTHWEST QUARTER (NW1/4),

THENCE N02°40'06"E 350.01 FEET;
THENCE S87°38'06"E 827.08 FEET;
THENCE S02°41'09"W 353.78 FEET;

THENCE N87°22'31"W 826.96 FEET TO THE POINT OF BEGINNING, CONTAINING 6.681 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. TOTAL REZONING TO RSF-4, BEING 30.872 ACRES MORE OR LESS.

LANE
RZN05-1452



*see attached
owner
for page 1 of
2nd submittal
w/ corrections*

EXHIBIT "A"

PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

[Signature]
Applicant's Signature

second submittal : parcels close

submitted as: RZN05-1452

4/15/05

TR

Milholland Engineering & Surveying

205 West Center Street

Fayetteville, Arkansas 72701

Phone: (479) 443-4724 Fax: (479) 443-4707

E-mail: MCOengr@swbell.net

LETTER OF TRANSMITTAL

C. 5

Planning Commission Appeal (Lane)
Page 6 of 6

To: City Clerk

113 West Mountain

Fayetteville Ar 72701

Date: May 20, 2005

Job No: E-745

Attention: City Clerk

RE: Lane's appeal

WE ARE SENDING YOU ☐ Attached ☐ Under separate cover Via _____ the following items:

- ☐ Shop Drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☐ Copy of Letter ☐ Change Order ☐ _____

COPIES	DATE	NO.	DESCRIPTION
10	5-20-05	E-745	Lane's Property Portfolio

THESE ARE TRANSMITTED as checked below:

- ☒ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☐ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____ corrected prints
☐ For review & comment ☐ _____
☐ For Bids Due _____, 200__ ☐ Prints Returned after Loan to us

REMARKS

If you have any questions please call.

COPY TO: File

SIGNED: 

For: Melvin L. Milholland, Owner/PE/PLS

If enclosures are not as noted, kindly notify us at once

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: May 20, 2005

Subject: Rezoning for Wimberly (RZN 05-1479)

RECOMMENDATION

The Planning Commission voted to deny the subject rezoning request rezoning approximately 0.26 acres of property from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office. Planning Staff originally recommended approval of the rezoning request.

BACKGROUND

Property description: The 0.26-acre subject property is located north of Elm Street, west of Green Acres Road. The property is zoned RSF-4, Residential Single Family – 4 units per acre, and currently developed for single family residential use. Property to the west is also developed for single family use, while property to the north, east, and south is developed for office uses. The Future Land Use plan identifies this property as Office.

Request: The applicant is requesting the property be rezoned from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office. The applicant proposes to use the existing single family dwelling for a massage therapy and reflexology office. The applicant currently has an office at 118 E. Sunbridge. Hours of operation are proposed to be from 9am to 5pm with an anticipated 7 one-half hour to hour appointments per day.

Public Comment: Numerous surrounding neighbors contacted the Planning Division with concerns regarding this rezoning request and several petitions against the requested rezoning were submitted. The applicant, too, has submitted information from neighboring property owners and businesses supporting the rezoning request. All of these materials have been included in the staff report.

DISCUSSION

This item was heard at the regular Planning Commission on May 09, 2005. A motion was made by Commissioner Trumbo and seconded by Commissioner Lack to approve the requested rezoning. The motion failed with a 4-4-0 vote, with Commissioners Ostner, Allen, Myres, and Clark voting no. The applicant has submitted an appeal of the Planning Commission decision to the City Clerk within the 10-day appeal period. The applicant has also submitted a Bill of Assurance for the City Council's consideration.

BUDGET IMPACT

None.

RZN 05-1479

May 11, 2005

Office of the City Clerk
Fayetteville, Arkansas

RECEIVED

MAY 11 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Des

To whom it may concern:

This letter is to file an appeal regarding the decision made by the Fayetteville Planning Commission May 9, 2005, not to rezone the residence at 155 E. Elm Street, Fayetteville as R-O. One commissioner was absent, making the vote a four/four split. We understand that some of the commissioners and neighbors were concerned about the potential future uses of the property if rezoned R-O. In order to address these concerns, we are providing the attached *Bill of Assurance* which will limit what type of businesses will be allowed to operate at this address in the future if rezoned.

Our plans for this property are to use it as a reflexology and massage therapy office. We the owners, Sally and David Wimberly, feel our plans to renovate the property are minor and to a degree that it can easily be converted back into a residence if and when we decide to sell. In our opinion, the plans we have for this property will truly be an asset to the neighborhood – improved landscaping, new windows, replacement of rotting siding, new exterior paint, and installation of a deck and French drain. Further, due to the nature of Sally's business, any additional traffic on Elm Street will be minimal.

We would like to note that we first obtained support for this rezoning from the City Planning Office. This preceded our application for rezoning and our offer to purchase the property. We understand that the Planning Office's support was primarily based upon the City's 2020 General Plan, which shows this property as R-O (the same as 6 of the 7 adjacent properties). We are left confused and frustrated by the lack of support from the Planning Commission given this rezoning is in conformance with the 2020 General Plan, which they themselves touted as an asset to the city during the meeting. What is the purpose of the plan if citizens are blocked when they attempt to follow it?

Again, this is requesting an appeal based on the decision made at the Planning Commission meeting May 9th. We would like to be put on the agenda for the June 7th City Council meeting if possible.

Sincerely,

Sally Wimberly

Sally and David Wimberly
1025 Sunset Dr.
Fayetteville, Arkansas

MAY 12 2005

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Sally and David Wimberly, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to Sally's reflexology/ massage therapy business. But, we would like to keep all other uses under R5F4 that would be allowed jointly under RO and R5F4.

2. Other restrictions including number and type of structures upon the property are limited to _____

3. Specific activities will not be allowed upon petitioner's property include N/A

4. (Any other terms or conditions) The primary structure on the property shall maintain the size, character, and appearance of a single family home at all times.

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Sally & David Wimberly, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

5-12-5
Date

Sally Wimberly David Wimberly
Printed Name

1025 Sunset Dr.
Address
Fayetteville, AR 72701

Sally Wimberly David Wimberly
Signature

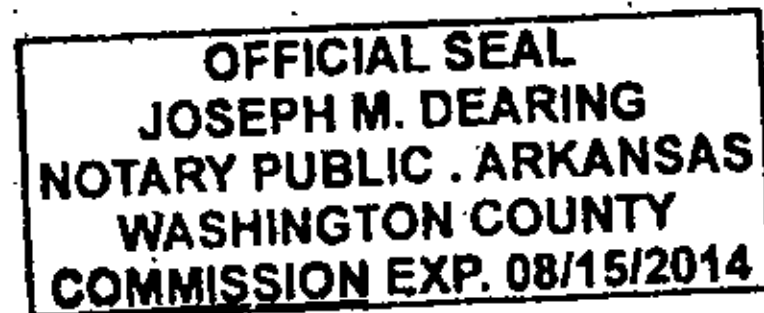
NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 12 day of May, 2005, appeared before me, Sally and David Wimberly and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

My Commission Expires:
08/15/2014

Joseph M. Dearing
NOTARY PUBLIC





PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: May 5, 2005

RZN 05-1479: Rezoning (WIMBERLY, 368): Submitted by DAVID & SALLY WIMBERLY for property located at 155 E ELM STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.26 acres. The request is to rezone the subject property to R-O, Residential Office.

Property Owner: TIM BRISIEL

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends rezoning the subject property to R-O, Residential Office, based on findings found herein:

PLANNING COMMISSION ACTION:	Required <u>YES</u> ☐ Approved ☒ Denied Motion to Approve: Trumbo/Lack ² 4-4-0 No: Allen, Ostner, Myres, Clark Motion fails.
Date: <u>May 09, 2005</u>	
CITY COUNCIL ACTION:	Required <u>YES</u> ☐ Approved ☐ Denied
Date: <u>June 07, 2005 (1st reading if recommended)</u>	

BACKGROUND:

Property description: The 0.26-acre subject property is located north of Elm Street, west of Green Acres Road. The property is zoned RSF-4, Residential Single Family – 4 units per acre, and currently developed for single family residential use. Property to the west is also developed for single family use, while property to the north, east, and south is developed for office uses.

Request: The applicant is requesting the property be rezoned from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office. The applicant proposes to use the existing single family dwelling for a massage therapy and reflexology office. The applicant currently has an office at 118 E. Sunbridge. Hours of operation are proposed to be from 9am to 5pm with an anticipated 7 one-half hour to hour appointments per day.

Public Comment: Staff has received numerous calls from the surrounding neighbors and several petitions against the requested rezoning. The applicant, too, has submitted information from neighboring property owners and businesses supporting the rezoning request. All of these materials have been included in the staff report.

Recommendation: Staff recommends approval of rezoning the subject property R-O based on the findings included herein. The proposed use is compatible with many of the surrounding properties that allow office uses and is specifically designated for office use on the General Plan 2020.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Office	R-O, Residential Office
South	Office Buildings	R-O, Residential Office
East	Office	R-O, Residential Office
West	Single Family Homes	RSF-4, Res. Single-family – 4 units/acre

INFRASTRUCTURE:

Streets: Currently the site has access to Elm Street.

Water: Public water is adjacent to the site. There is a 6" water main along Elm Street.

Sewer: Sanitary sewer is adjacent to the site. There is an 18" sanitary sewer main along Elm Street.

Fire: The subject property is located 2 miles from Fire Station #4, with an estimated 7 minute response time.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

LAND USE PLAN: General Plan 2020 designates the site as **Office**.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The Future Land Use map designates the subject property as **Office**. The boundary for office use identified in the General Plan 2020 extends approximately 200' west of the subject property, encompassing several

adjacent single family homes. The proposed zoning for Residential Office will not only permit residential uses, but professional offices and studios as well. It is appropriate to allow and encourage low impact office development in Residential areas as a means of providing necessary services close to an established population base. This type of mixed use is encouraged in the City's adopted General Plan 2020 to create dynamic and safe neighborhoods.

Staff finds that should the existing structure be utilized for office uses or the at any time the property be redeveloped for permitted uses within the R-O zoning district, all parking and drive aisles shall be screened with deciduous and coniferous vegetation to provide screening from adjacent single family uses. Tree preservation, landscaping, parking lot lighting, commercial design standards, etc. shall comply with development regulations.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The location and potential uses of the property justify rezoning the property R-O at this time. The subject property is located west of Green Acres Road and College Avenue, a major thoroughfare. Surrounding properties are zoned C-2 and R-O, developed for office and commercial/retail uses. A Residential Office zoning allows uses transitional and compatible between RSF-4 uses and more intense uses allowed within the C-2 zoning district. Although property to the east is currently zoned R-O and is an area of transition, the Future Land Use Plan has identified the expansion of Office Use beyond the current zoning to be appropriate. The proposed office use will not substantially increase traffic on the adjacent streets, nor will it change the character of the surrounding neighborhood.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The police department has determined the proposed rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Street improvements may be required at the time this property is redeveloped. The street has been widened and improved along the lot to the east.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The approximately 0.26-acre tract is currently developed for one single-family residential dwelling. Rezoning the property to the proposed R-O zoning designation will increase the potential density and uses permitted for development. Permitted uses within the R-O zoning district include single family, two-family, and office uses.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

161.15 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 13	Eating places
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24
----------------	---------

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Fayetteville Fire Department Service Delivery Impact: Zoning Review April 26, 2005										
Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Proposal Area at Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1470	Phillips/Baggett	YES	29.59	5	3.9 miles	8 minutes	8 minutes	n/a	n/a	n/a
RZN 05-1471	Phillips/Baggett		36.99	5	3.9 miles	8 minutes	8 minutes	34	13	20
RZN 05-1479	Wimberly		0.26	4	2 miles	7 minutes	7 minutes	n/a	n/a	n/a

★



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 6
Planning Commission Appeal (Wimberly)
Page 12 of 50

POLICE DEPARTMENT

May 2, 2005

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 05-1470 (PHILLIPS/BAGGETT, 571): submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE ROAD would substantially alter the population density and thereby undesirably increase the load on public services and created an appreciable increase in traffic danger and congestion. This property is in the planning area and contains approximately 29.59 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to RZN 05-1471 (PHILLIPS/BAGGETT, 571): submitted by submitted by MICHELLE A HARRINGTON for property located at 5150 and 5270 E. HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.99 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, four units per acres.

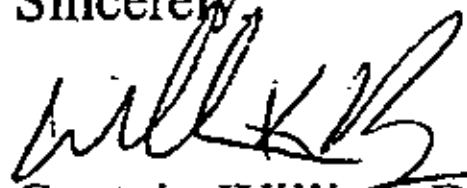
It is the opinion of the Fayetteville Police Department that this rezoning will substantially alter the population density and will possibly create an undesirable increase on police services. This rezoning will increase our response time to calls for service because this property is on the outer boundaries of our current service area. The potential of creating 147 new homes will increase the traffic on an already congested arterial roadway, (Huntsville Road.)

In reference to **RZN 05-1479: (WIMBERLY, 368)**: Submitted by DAVID & SALLY WIMBERLY, for property located at 155 E. ELM STREET. The property is zoned RSF-4, SINGLE FAMUKY-4 UNITS/ACRES and contains approximately 0.26 acres. The request is to rezone the subject property to R-O, Residential Office.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these annexations and rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion.

Sincerely,



Captain William Brown
Fayetteville Police Department

March 29, 2005

To: City of Fayetteville
From: Sally and David Wimberly
Re: Rezoning 155 E. Elm

This document is in support of our rezoning application for 155 E. Elm (parcel # 765-07405-000). This property is a three bedroom two bath home of approximately 1122 square feet. The legal description is:

Lot Numbered One (1) of Lazenby Third Addition to the City of Fayetteville, Arkansas, as per plat of said addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County Arkansas.

This property is currently owned by Tim Brisiel, and is for sale. We would like to purchase the property for use as Sally's reflexology/massage therapy office, which would require rezoning from its current RS4 to RO. (Her current practice is at 118 E. Sunbridge in an office co-owned with a psychologist, and was established in 1999.) She would use the house in its current form with the following probable improvements:

- Widening the driveway and allowing parking for 4 vehicles,
- Adding a wheelchair ramp for handicap access,
- Building a deck in the rear of the house,
- Placement of a small sign for my business in the front yard, and
- Landscaping improvements such as establishing flower beds and planting trees.

She normally sees one client at a time, usually for one to one and half hours. Her office hours are generally 9am to 5pm. This would result in approximately 7 additional vehicles traveling on Elm Street per weekday. This property is just off Green Acres Road and is surrounded on three sides by businesses (properties zoned RO). A meeting was held on March 27, 2005 with Suzzane Morgan to discuss and review this request.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

Submitted as:
RZN05-1479
4/14/05
TJ

From: "W. David Wimberly" <wdw@uark.edu>
To: Suzanne Morgan <SMorgan@ci.fayetteville.ar.us>
Date: 4/5/05 10:00PM
Subject: Addendum to rezoning request

This is an addendum to the rezoning request of March 29, 2005 for 155 E. Elm. It is being provided to explicitly address the checklist items below which were omitted in the original application.

6c. A sign for Sally's Reflexology business will be added to the property to assist clients in locating the business and to advertise the business. Other than this sign, the land use will continue to appear as a single family home sitting on a landscaped city lot. As a business where clients come and go throughout the day, the property will be similar to the existing businesses located to the North, East, and South. In appearance, other than client traffic and a business sign, it will continue to resemble a residential home like the one immediately to the West.

6d. This home currently has city water and sewer service. Usage of these services will be modest for Sally's reflexology business, and is expected to be less than what would be required if the property were used as a residence.

7a. This property is currently surrounded on three sides by property zoned RO. We understand that this lot as well as the two lots immediately to the West appear in the city's 2020 plan as RO.

7b. Rezoning is required at this time if Sally is to operate her business from this location. If not rezoned, we will be forced to sell the property to someone that would use it for residential purposes.

7c. Sally typically sees from 6 to 7 clients per day for one to one and a half hours each. This will result in a very modest increase in traffic on Elm Street.

7d. Rezoning this property as RO and using it as a Reflexology business will result in a lower population density and thus decrease the load on public services.

7e. There is no reason this property could not continue to be used as a personal residence in line with its current RS4 zoning.

--

W. David Wimberly
wdw@uark.edu

CC: Sally Wimberly <SWimberly@juno.com>, Jan Gambill <JGambill@ci.fayetteville.ar.us>

Date: April 19, 2005
To: Whom It May Concern
Subject: Petition for support of rezoning 155 E. Elm as RO

Sally and David Wimberly (Fayetteville residents at 1025 Sunset Dr., 443-7518) are attempting to purchase the property at 155 E. Elm St. and have applied for rezoning of the property as residential/office (RO). This petition is for support of this rezoning request. Sally wishes to use this house for her Reflexology (and massage therapy) business (information brochure available). Sally currently (since 1999) operates this business in conjunction with a building partner at 118 E. Sunbridge, but is being forced to sell this property due to her partner moving her business to Bentonville.

Sally has been attracted to the Elm Street property due to its quite and natural setting with many large trees and much green space. This quiet and natural surrounding is conducive to her work where she assists clients in relaxing and healing. She plans to do extensive landscaping on the property and many other improvements to the home including the following:

- Planting additional trees including flowering trees such as dogwoods, Anne magnolias, red buds, and at least one Japanese maple
- Cleaning out the brush and logs currently on the property
- Adding a bird bath, bird feeders, and bird houses
- Painting the house and replacing the rotten *hardboard* siding
- Replacing the rusting metal supports used on the porch and carport
- Replacing the rotten cedar fencing on the west side of the house with a low picket fence to also be installed on the south and east side of the back yard
- Adding a drainage system to prevent standing water and the flooding that currently occurs under the house
- Widening the driveway and enclosing the open ditch to the east of the driveway since it is perceived to be a safety hazard (which will also provide additional parking)

Sally and David currently maintain the lawn and grounds of her current office at 118 E. Sunbridge (pictures available). There they have planted numerous trees including: black gum (2), crape myrtle, Japanese maple, various maples (4), red bud (2), dogwood (2), pin oak, burr oak, water oak, sweet gum, and crab apple. Other plantings have included fire bushes, box woods, Japanese rose, flowering quince, heavenly bamboo, forsythia, roses, iris, wild hibiscus, tulips, red hot poker, and other landscaping plants. This information is provided as an indication of the care and pride they wish to take in the Elm St. property.

If you support this rezoning request, or at least have no objections to it, we would appreciate your showing that by signing this petition which will be presented to the City Planning Commission along with the rezoning request May 9, 2005.

Thank you,
Sally and David Wimberly

To: Fayetteville City Planning Commission
From: Sally and David Wimberly
Date: May 2, 2005
Subject: Improvement Plans for 155 E. Elm

This narrative and accompanying pictures are being provided to help explain the improvements planned for the property at 155 E. Elm, providing that it is rezoned RO.

E1 – This picture is of the front of the property. Additional parking will be required and is either planned by widening the driveway and/or adding a circle driveway in the front. Concrete would be used for whichever method is used.

E2 – This picture shows the deep ditch on the East side of the driveway, which we consider a safety hazard since it would be easy to drive off the edge of the driveway here. We would like to extend the culvert and curbed concrete covering that currently exist so that it connects with the driveway on the East side.

E3 – This is the West side of the house and is a very low area where water was standing in late March and early April. We plan to add a French drain from the back yard out to the main ditch at the street. We will also remove this section of fence and would like to install a low (approximately 3') picket fence here and along the South and East border of the back yard. We will also be painting the house.

E4 – This picture shows much of the back yard and the back of the house. We plan to remove the patio covering and install a deck at the rear of the house.

E5 – This is a small willow oak, one of 5 trees we planted before closing on the purchase. We plan to do extensive landscaping on

the property, as demonstrated by the following pictures of Sally's previous office.

S1 – The following pictures are of 118 E. Sunbridge which was purchased as undeveloped land in 1999 by Sally and a partner. These pictures are provided as an example of the kinds of landscaping planned for 155 E. Elm. This picture shows Sally and one of the first of many trees she planted there, a young sweetgum.

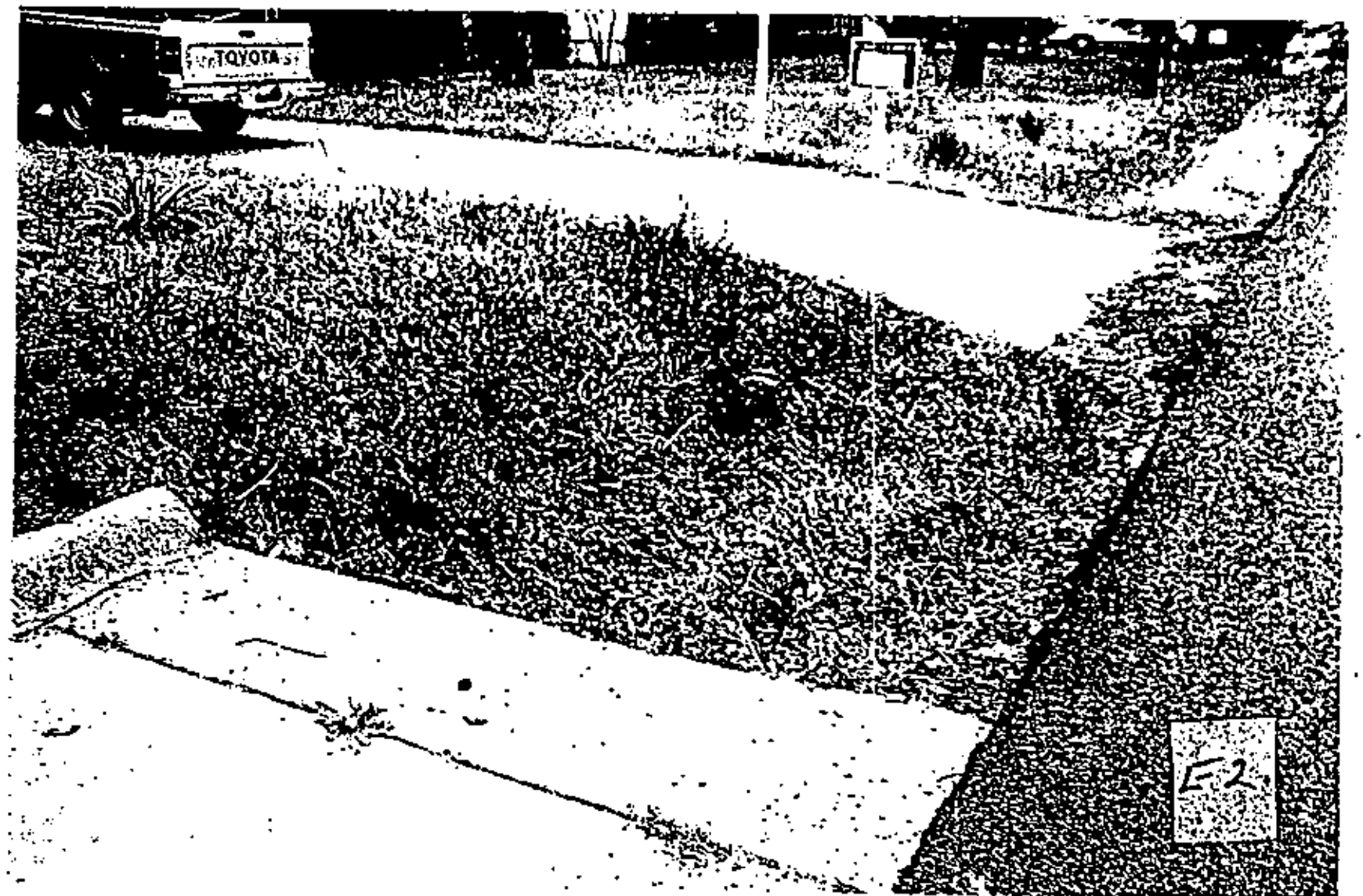
S2 – Birds are very important to Sally, and to many of her clients. Outside her Sunbridge office she has bird houses, a bird bath, and numerous bird feeders.

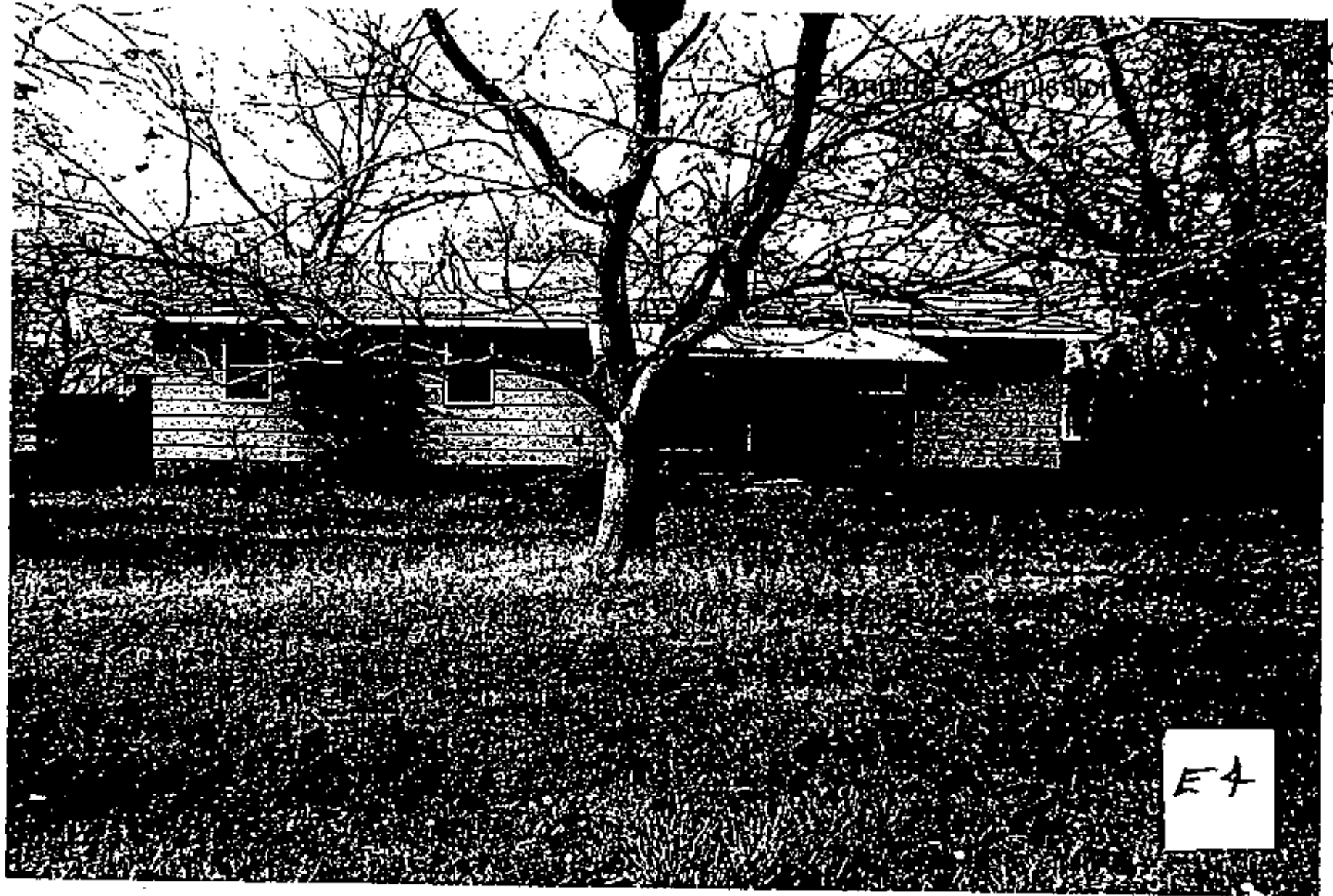
S3 – This shows Sally's office and massage room on Sunbridge. Here you can see a Japanese maple, saucer magnolia, and forsythia along the building all planted by Sally.

S4 – Another picture of the East side of the Sunbridge building with a fire bush to the left and a maple tree to the right. Other plantings made by Sally include black gums, pin oak, burr oak, lilac, quince, Japanese kerria, heavenly bamboo, iris, roses, and many others.

S5 – This is the deck of the Sunbridge property with the numerous potted plants Sally maintains.

We hope this gives you an idea of the care and attention that will be given to the little house on Elm Street, and alleviates any fears that rezoning might degrade the neighborhood.

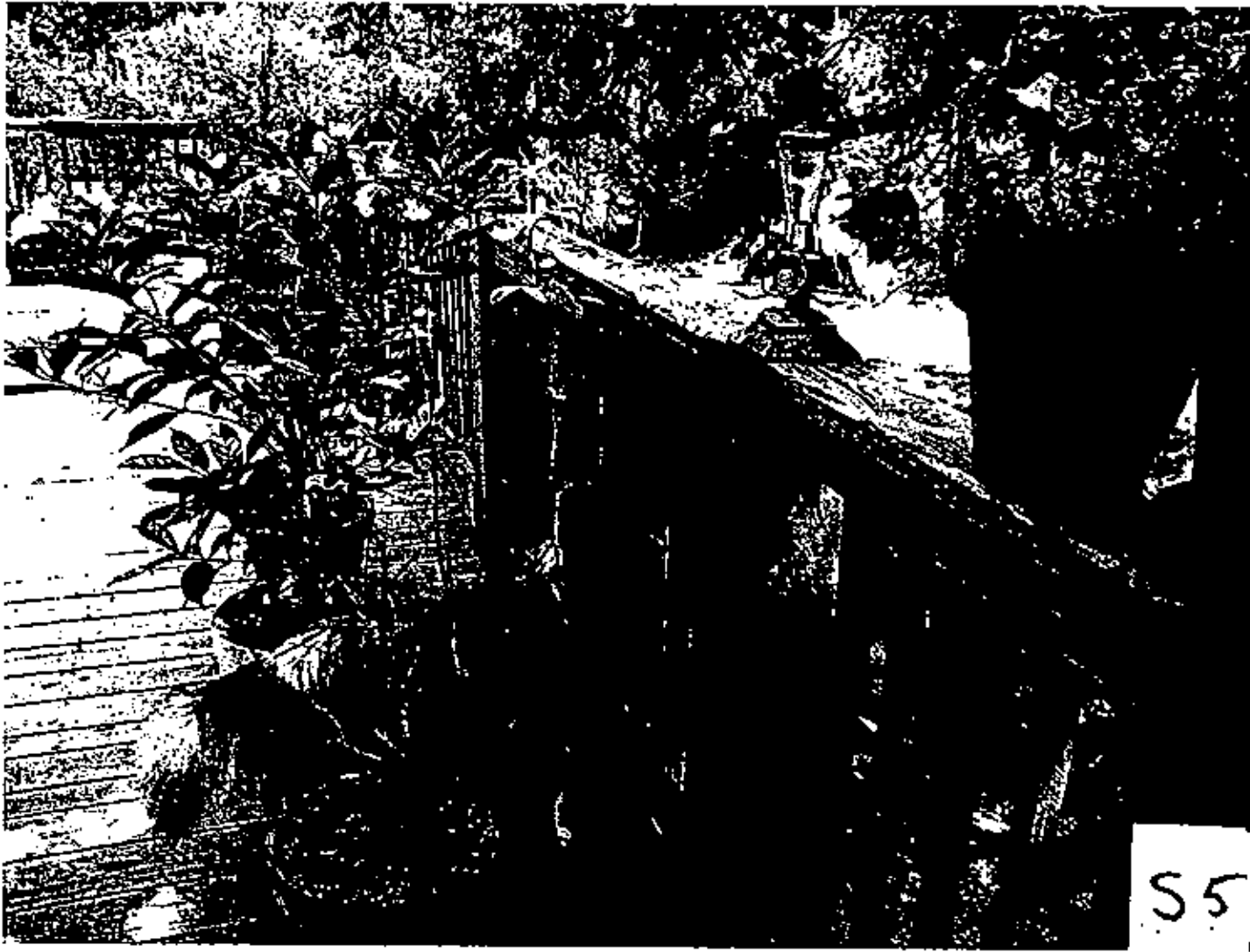




C. 6
erly)
f 50







To: Fayetteville City Planning Commission
From: Sally and David Wimberly
Date: May 4, 2005
Subject: Adjacent property owner support for rezoning 155 E. Elm

Please find attached signed petitions and in one case a letter of support from adjacent property owners for rezoning 155 E. Elm RO. This includes all adjacent property owners except one, the parking lot and office building at 2039 Green Acres which is located to the South and Southwest of 155 E. Elm. Since this rezoning application was filed, this property was sold by Mertishaw (accountants) to TME, Inc. (a Little Rock based mechanical engineering firm). Ann Mertishaw provided the name of Allen Pettit as a contact at TME, but he has failed to respond to phone calls or e-mail.

The other adjacent owners are:

- The house West at 125 E. Elm is owned by David Johnson. This property also sold and changed hands after our rezoning application was filed. (Formerly owned by Webb.)
- The house Northwest at 102 E. Elm is owned by Patrick Rush.
- The Muzak business North at 2109 Green Acres is owned by Fitzhugh Communications.
- The dentist office operated by Terry Box is Northeast at 2101 Green Acres and is owned by John Box.
- The law office East and Southeast is owned by Mark Martin who shares the office with Ken Kicklak.

Patrick J. Rush, P.A.

Attorney at Law
505 N. Shady Ave., Suite 1
P.O. Box 847
Fayetteville, Arkansas 72702-0847
Telephone: (479)973-2900 ■ Facsimile: (479)973-2889

May 3, 2005

City of Fayetteville
Planning Dept.
Fayetteville, AR 72701

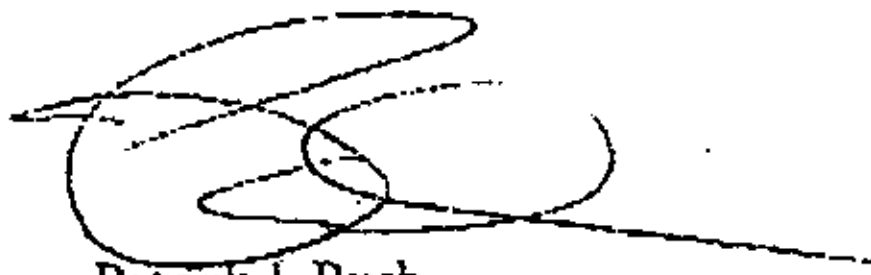
Re: Support For rezoning 155 Elm Street
Fayetteville, Arkansas

To whom it May Concern:

As owner of the property located at 102 Elm Street please allow this letter to evidence my support of Sally and David Wimberly's request to rezone the property located at 155 Elm Street, Fayetteville, Arkansas.

It is my belief that the Wimberly's intended use for the above described property will be an enhancement to the area and will serve as an asset to the surrounding properties. I also believe that the intended commercial/office use of the property is in conformance to the surrounding properties and will not be a significant change to the established uses of adjoining properties.

Sincerely,



Patrick J. Rush

Petition for Rezoning 155 E. Elm as Residential/Office

Name and Address

Signature

Date

David S. Johnson
4285 N. SHELTON DR
Fayetteville, AR

[Signature]

4-22-05

MAY-03-2005 11:59

FITZHUGH COMMUNICATIONS

4794423468

P.01

Petition for Rezoning 155 E. Elm as Residential/Office

Name and Address

Signature

Date

Fitzhugh Communications Inc.
2109 Green Acres Road
Fayetteville, AR 72703

[Signature]

5-3-05

Petition for Rezoning 155 E. Elm as Residential/Office

Name and Address

Signature

Date

Terry G. Box DDJ
2101 Green Acres
Fayetteville, AR 72703

[Signature]

23 Apr. 2005

John E. Bay
2101 Green Acres Rd.
Fayetteville, AR 72703

[Signature]

23 Apr. 2005

Petition for Rezoning 155 E. Elm as Residential/Office

Name and Address

Signature

Date

Mark Martin
2059 Green Acres
Fayetteville, AR

Mark Martin 4/22/05

KEN KIEKLAIC
2059 GREEN ACRES RD
FAY AR 72702

[Signature]

4/22/05

Elm, Erstan, Baker Neighborhood Association
Rezoning of 155 East Elm Street

May 5, 2005

Dear City of Fayetteville,

We, the home owners of the Elm, Erstan, Baker Neighborhood Association, request the rezoning of 155 East Elm Street from Residential (R) to Residential/ Office (RO) be denied. Among additional reasons the following are the most prominent: a) the reduction of our SINGLE FAMILY RESIDENTIAL COMMUNITY by the encroachment of something other than a property zoned exclusively for single family residential use; b) the increase of vehicular traffic on an already overburdened, pedestrian unfriendly Elm Street from a business owners clients, patrons, product/ postal deliveries, etc.

Jeremy ~~Shane~~ and Sarah Edwards *Sarah L Edwards*
2020 Baker Drive
Fayetteville, Arkansas 72703 *Jeremy Edwards*
Children: 1

Brian and Alice McFerron *Brian McFerron*
2021 Baker Drive *Alice McFerron*
Fayetteville, Arkansas 72703
Children: 3

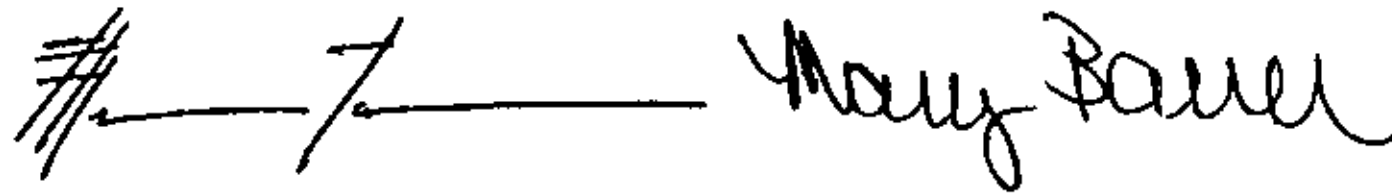
Madelline Ryan *Madelline Ryan*
2033 Baker Drive
Fayetteville, Arkansas 72703
Children: 0

Rodney and Dawn Rollins *R. J. Rollins*
2034 Baker Drive *Dawn Rollins*
Fayetteville, Arkansas 72703
Children: 2

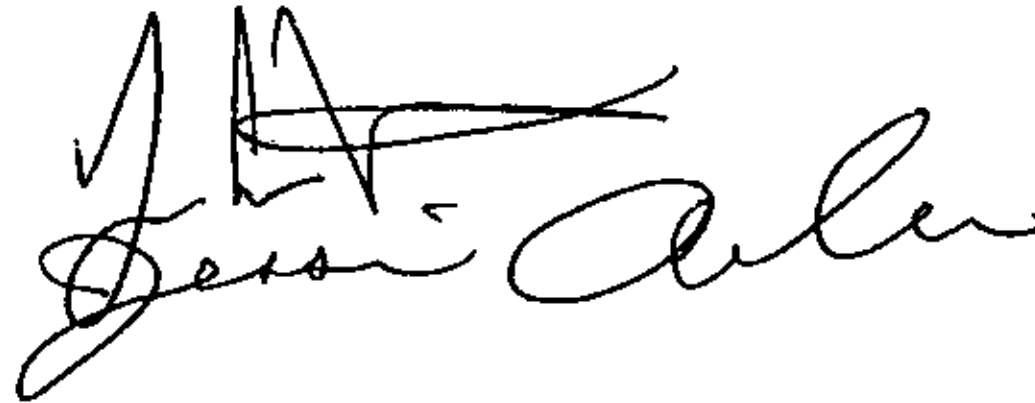
Randy and Nancy Fondren *Nancy Fondren*
2047 Baker Drive *Randy Fondren*
Fayetteville, Arkansas 72703
Children: 3

Elm, Erstan, Baker Neighborhood Association
Rezoning of 155 East Elm Street

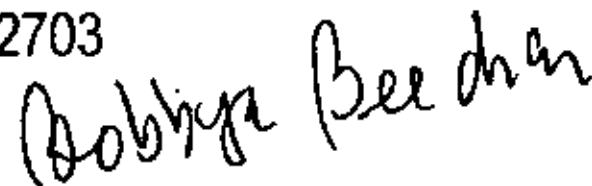
Michael and Mary Bauer
2048 Baker Drive
Fayetteville, Arkansas 72703
Children: 1

 Mary Bauer

Liam Nesson, Jessica Andrews
2055 Baker Drive
Fayetteville, Arkansas 72703
Children: 0

 Jessica Andrews

Bobbie Beecher
2056 Baker Drive
Fayetteville, Arkansas 72703
Children: 0

 Bobbie Beecher

Elm, Erstan, Baker Neighborhood Association
Rezoning of 155 East Elm Street

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SUSAN JENKINS
ROBERT GINSBURG
40 E. ELM ST. 479-521-1255

WILLIAM / SHEILA BRYANT
75 E. ELM ST. 521-4672

JANE / ROBERT COFFIN
45 E. ELM ST. 582-2559

BEVERLY HILL
61 E. ELM 442-8483

Rachel S. Garcia
9 W. ELM 587-9356
LESLIE HUFF
9 W ELM

Beth & Luis Jorge
4 W Elm St
32 W. Elm
BERTHA L. LEWIS

[Signature] Robert Jones
CHILDREN: 0

[Signature] Will. & Sheila Bryant
CHILDREN: 1

[Signature] Jane Coffin
[Signature] Robert Coffin (Children 4)

[Signature] Beverly Hill
CHILDREN: 0

[Signature] Rachel S. Garcia
Expecting 1

[Signature] Leslie Huff

[Signature] Elizabeth Jorge
CHILDREN: 3

[Signature] Bertha L. Lewis
CHILDREN: 0

Elm, Erstan, Baker Neighborhood Association
Rezoning of 155 East Elm Street

May 5, 2005

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~~ENTER HERE~~
11 E. ELM ST. 479-443-7623 CHILDREN 0

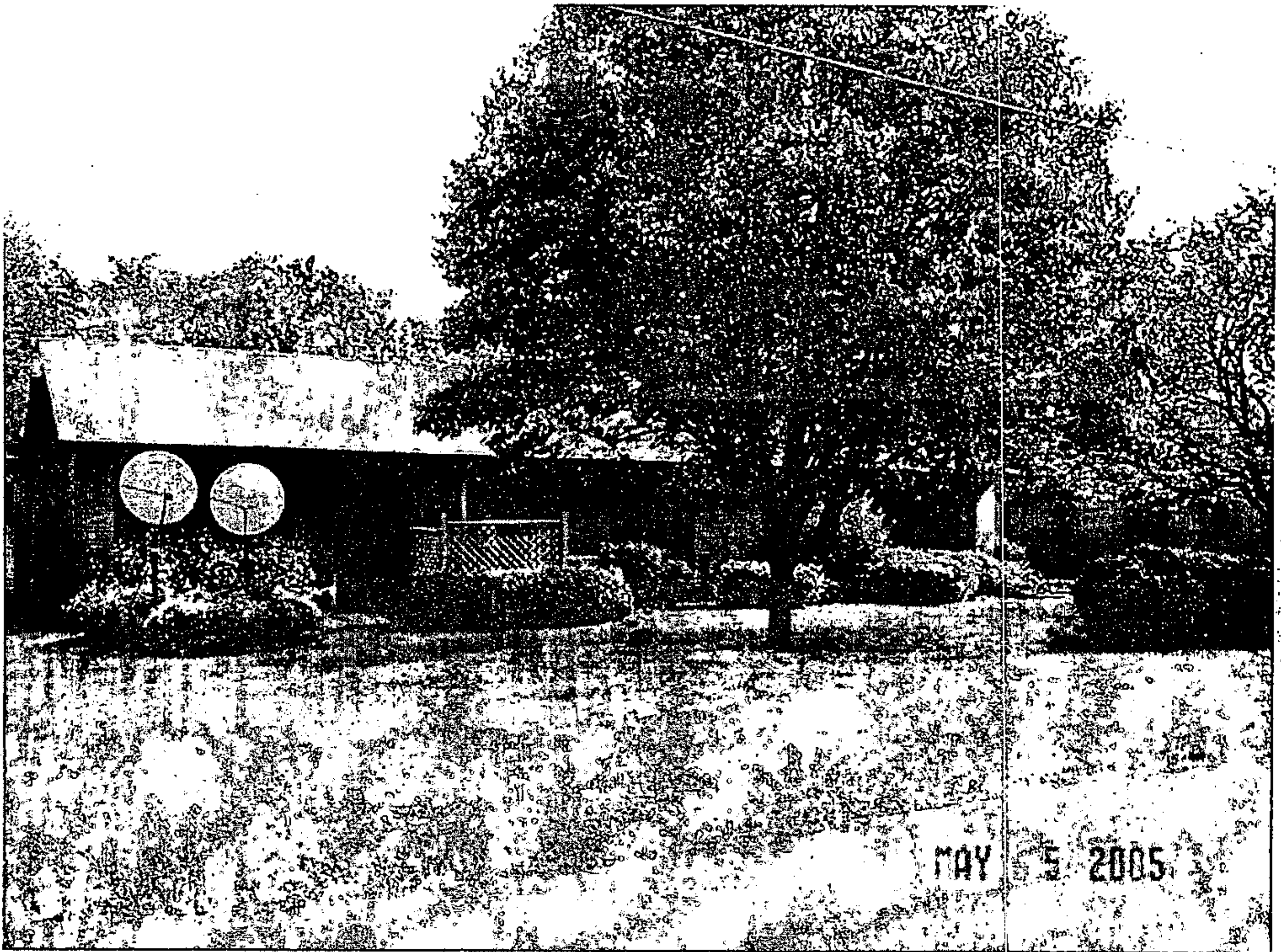
Sincerely
Toni Sheryl McMullen

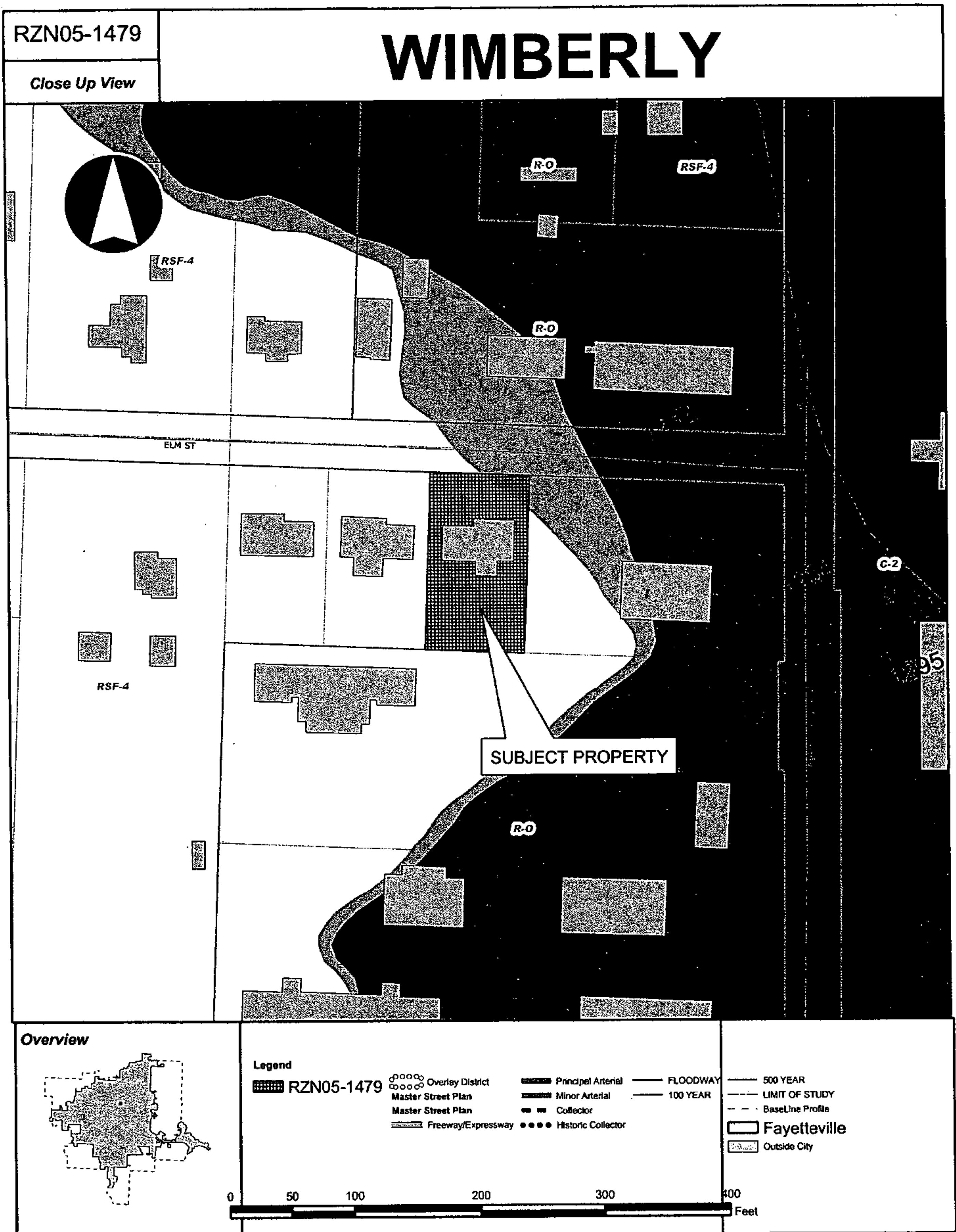
Toni Sheryl McMullen

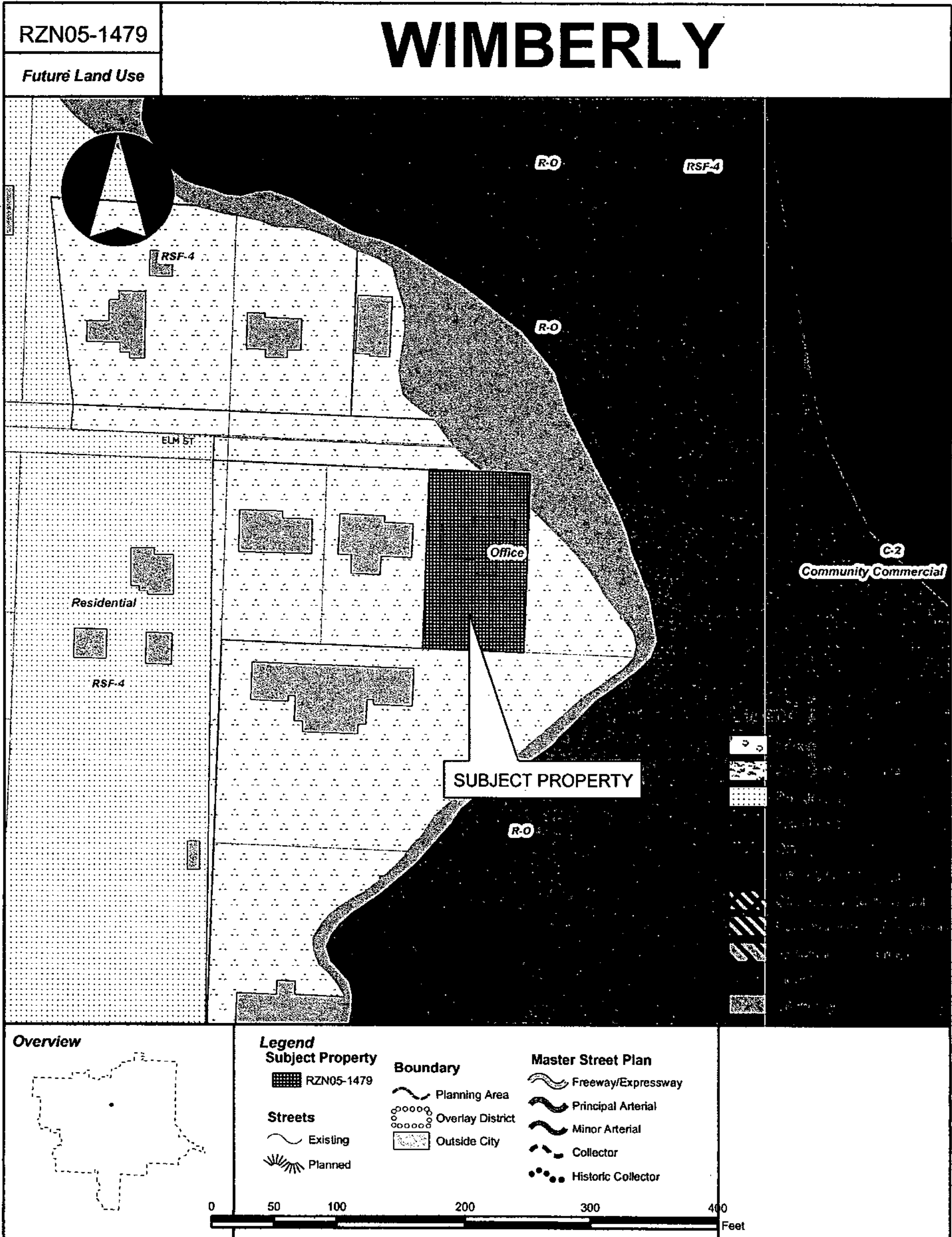
View of property to the east,



View of property to the North.







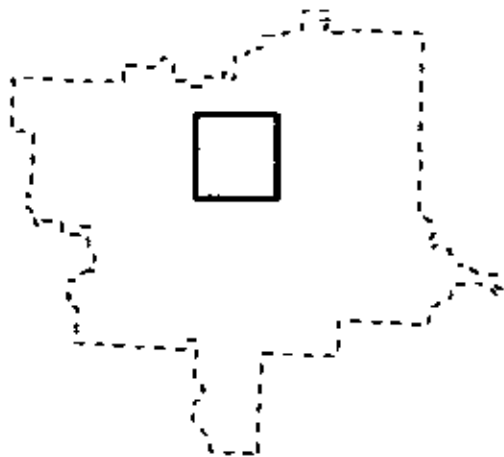
RZN05-1479

One Mile View

WIMBERLY



Overview



Legend

Subject Property
RZN05-1479

Boundary

Planning Area
Overlay District
Outside City

Master Street Plan

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

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RZN 05-1479: Rezoning (WIMBERLY, 368): Submitted by DAVID & SALLY WIMBERLY for property located at 155 E ELM STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.26 acres. The request is to rezone the subject property to R-O, Residential Office.

Ostner: The next item on our agenda is RZN 05-1479 for Wimberly. If we could have the staff report please?

Morgan: The subject property is a .26 acre tract located south of Elm Street, west of Green Acres Road. The property is zoned RSF-4, Residential Single Family, four units per acre and is currently developed for single family residential use. The property to the west is also developed for single family use while property to the north, east and south is developed and zoned for office uses. The applicant at this time is requesting that the property be rezoned from RSF-4 to R-O. The applicant proposes to use the existing single family home for a massage therapy and reflexology office. Staff has received numerous calls from the surrounding neighbors and several petitions against the requested rezoning. The applicant too has also submitted information from neighboring property owners and businesses supporting a rezoning request. I have included many of those materials in your packet and presented those to you tonight as well. Staff at this time is recommending approval of rezoning the subject property to R-O based on the findings that I will go over. We find that the proposed use is compatible with many of the surrounding properties that allow for office uses. Specifically this is designated for office use on the General Plan 2020. With the General Plan we have a Future Land Use Map which designates the subject property as office. The boundaries for this office use identified on the plan extend approximately 200' west or two lots west of the subject property and encompasses several adjacent single family homes and other properties. The proposed zoning for R-O will not only permit residential uses but also professional offices and studios as well. It is appropriate to allow and encourage low impact office development in residential areas as a means for providing necessary services close to established population base. We also find that should the existing structure be utilized for office uses or that the property be redeveloped for permitted uses within the R-O zoning district, all parking and drive aisles should be screened. With regard to a determination of whether the zoning is justified and/or needed at this time, staff finds that the location and potential uses of the property justify rezoning the property R-O at this time. The subject property is located west of Green Acres Road as well as College Avenue, which are both major thoroughfares. Although property to the east is currently zoned R-O and somewhat acts as a transition between the more intense C-2 uses to the east and the residential uses to the west, rezoning this property to R-O will expand that R-O or that transition area between these two uses. The Police Department has determined that the proposed rezoning will not substantially alter

population density nor will it create an undesirable increase on services. Finally, staff finds in favor of this rezoning request and if you have any questions we will be happy to address those. Thank you.

Ostner: Is the applicant present? If you could please introduce yourself and tell us about your project.

Wimberly: I'm Sally Wimberly, this is my husband, David. I am a licensed massage therapist and board certified reflexologist. I have had a thriving profitable private practice for the last six years on Sunbridge. Prior to that I was a special education teacher for the Fayetteville School District. I have been part owner on Sunbridge for the last six years. My colleague is moving her practice to Bentonville so I have been forced to find a different location for my business. What attracted me to this Elm Street property is the secluded, quiet atmosphere of that neighborhood. Mark Martin and Ken Kieklak are right there on the corner of Green Acres and Elm. That is a good example of the type of environment that I have had at my office on Sunbridge. Landscaping was a big priority. I am real interested in the trees, the greenspace, the serene setting. The focus of my work is to promote relaxation and release of tension and so these are all things that I take very seriously in my work. Also, it is a convenient location for my clients. I have clients not only from Fayetteville but also from Rogers, Springdale and even Bentonville occasionally so it is a good location and easy for them to get to. Also, the fact that it was part of the 2020 Plan encouraged us to buy the property and to use it for this purpose. We did close on this property last week. Even prior to closing we were over there planting trees and picking up debris and already improving the property. That shows the commitment that we have to it. The changes that we are considering, we have met with an architect and he is drawing up some plans for us. The changes are really very simple. We want to put in new windows. The exterior needs a new paint job so that is something that we want to do. Of course, landscaping. It has been neglected for quite a while so, as I said earlier, that is a priority. We are going to add a deck in the back for plants and that sort of thing. Inside are pretty minimal changes. In talking to neighbors, we did go up and down the street and met some of the neighbors. Some of them mentioned to me that they were under the understanding that this was going to be a medical clinic. I just wanted to state that this is not going to be a medical clinic. I see on average five to six clients per day usually for an hour to an hour and a half one at a time. As far as the increased traffic, it is going to be minimal and my clients don't speed away, I assure you of that. I feel like we would be real assets to the neighborhood based on the type of business I run and my priorities for the type of environment I want to have.

Wimberly, D.: The parking situation, there is a small narrow driveway with a large open ditch. We plan to expand the driveway. We would like to widen the

driveway and possibly put in a circle drive so clients can circle in and not have to back out onto Elm Street. That is pretty minimal. We will have a handicapped access to the front porch. Other than that, it will still look like a home. We plan to keep it so that it can be used as a single family residence in the future.

Ostner: Thank you. We will get back with you. At this point I would like to open this up to the public. If anyone would like to speak to this rezoning request please step forward and introduce yourself.

Anderson: I'm Richard Anderson, I live at 2021 Erstan and am in opposition to the rezoning. Primarily because I am concerned about it further encroaching on our neighborhood. That is one of the biggest concerns. I have nothing against the business that they are wanting to put in. What concerns me is perhaps afterwards what could go in after that once it is rezoned. That opens the door. That is my concern. I did drive by their property over on Sunbridge and I saw that they were making improvements. One of my concerns is as far as the convenience of that area, Colt Square is right on the other side of our neighborhood and there are quite a few empty spaces in that and I would suggest that that would be a centrally located area as well. Thank you.

Nesson: My name is Liam Nesson. I recently moved into this neighborhood and have owned a house there for about a year now. I quickly joined the Neighborhood Association and we have had a couple of meetings over the last year. Our last one was at Robert Ginsberg's house and we all talked about this issue. I learned a little bit about the neighborhood and it is pretty neat, most of it used to be strawberry fields. I thought that was neat. That contributes to the atmosphere there I noticed once upon moving in. The people who want to open the business mentioned a quiet, quaint and secluded atmosphere. That is what we have there. I live on Baker Street, that is one of the dead end streets off of Elm and there are about 10 houses on my street and there are 10 children living on the street. I have learned that these plans for businesses in this area that are starting to encroach on Elm Street and they are kind of starting to threaten that atmosphere that we have been mentioning. There are no sidewalks on Elm Street and so that creates this thoroughfare between Green Acres Road and Gregg Street. It is getting dangerous for the kids. I don't think any of the kids are actually able to walk up and down Elm Street on a regular basis. We are getting these issues that everybody is concerned about. I just want to propose that the current plan also threatens that atmosphere. That heavy thoroughfare is a real concern to all of us. I just want to conclude that we value our current environment in this area of Elm, Erstan and Baker and would prefer that more businesses not encroach on our neighborhood. Thank you.

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McFadden: I'm Brian McFadden, I have lived on the end of Baker for about 18 years and raised three kids and really love the neighborhood. In fact people come in and say I can't believe how quiet it is here between Gregg and the main business Hwy. 71. That is partly the trees and the neighborhood. I am raising three grandkids now. I don't have anything against the business either but they are talking about the encroachment, we feel a little threatened by the outside world. I enjoy the kids, the neighborhood and I would just like to see it stay the same.

Fonder: My name is Nancy Fonder, I live on Baker Street. I also have nothing personal against the business that wants to go in on Elm Street. We have a small neighborhood and when businesses start coming down the street it feels threatening. I would also like to point out that I have a 13 year old son who walks to Woodland Junior High and he walks on Elm Street and it is very dangerous at times. There is no sidewalk, there is no safe place to walk at all and I think if you allow additional businesses on Elm Street it is just going to worsen the traffic there.

Bauer: I'm an architect and I understand how these things get graphically presented. We talk about transition so there is a block of land designated for R-O use. There is a housing shortage for single family. About 20% of our neighborhood is presently swallowed up in this Future Land Use Plan apparently discussing a revision to that plan is another hearing, that is another issue. This certainly opens the door to that. Among the threatening aspect of other businesses I want to look a little more at an ample scale. There is a transition between Green Acres and Elm. We are getting chewed up on the other side off of Gregg with apartment complexes coming in there. What I propose is a graphic image. There are different ways for example, of orienting one's self from a public to a private zone. In your home you can have a living room and a bathroom right off your living room. You can leave that wide open, that is one way to handle that, but it is probably not the most desirable. Maybe that is what we have right now between the C-2 zoning and the Residential Single Family. Or you can put a door if that is how your plan is laid out if you have a bathroom right next to your living room you can put a door on and that gives you some device to transition from a public to private zone. Here we are, single family residential, very private. The area out there on College Avenue and Green Acres is very public. We could put in a simple little island, we could use a sidewalk and an island as we have at the entry of Dickson Street. It would be a wonderful device to slow traffic down. It solves a lot of issues and identifies our neighborhood as a separate entity from the commercial projects that are going on around us. Again, I have to push on this, it has eaten up 15% to 20% of our neighborhood so that scale wise it doesn't make sense to have a transition of R-O so deep encroaching to our single family neighborhood. Again, we know that the housing shortage is incredible out there. I understand the type of

environment that these folks are looking for, I'm just proposing the thinking, if they want a residential type neighborhood why not get a Conditional Use Permit and put it up in their own backyard instead of our front yard. We really don't need it. If that is the kind of ambience that they want, which is understandable, to get the gardens going, get the indoor outdoor relationship, I love the notion architecturally but maybe you can do it in your own neighborhood and draw people there plus keep the additional traffic off of Elm Street. More and more younger families, my wife and I and our son moved back to Fayetteville two years ago and are enjoying it immensely. More and more of our neighbors have younger children and the interaction between all of us is wonderful. This again, would be a hurdle to overcome in terms of bringing an additional business and all that a business brings to it even if it is just a few patrons or clients a day. In closing, I know how the taxations and things work, how beneficial is not just this one property, but the whole 2020 Plan for the quantity of the scale of this being rezoned, eating away at our neighborhood, how is that so much more beneficial to this city and this city's public. Weigh that against how detrimental it is to our neighborhood. Thanks.

Martin:

I'm Betty Martin. My husband is Mark Martin, we own the Martin and Kieklak Law Firm building that is on the corner of Green Acres and Elm. We are just east of where Sally has bought the property. For many years our good friend Rusty Adams' sister owned the property. It was just a really nice comfortable place and it was so nice to see Rusty occasionally. They sold the property. The first thing that came to our mind was now what. Some people were talking about the children going back and forth to Woodland School and it was really dangerous to walk there. I don't know if any of you guys have seen our building and the landscape there but we have benches around it. It is a really beautiful building with the landscaping. We are kind of tree huggers. The landscape there is very pleasant and guess where the children cut through to go to Woodland School. Maybe there are not sidewalks in other places but I think that our property does add a little bit of safety for the children to cut through our lot and head to Woodland. That is kind of where it does offer some security I think. I think anyone who lives around that area knows where the property is that I'm talking about. They get to it mainly through Green Acres Road. Elm Street is not the main way. Anytime we tell people to drive we come through take Green Acres Road. That is obviously, the easiest access off of Hwy. 71. That is a different issue. In describing what they were talking about, number one, they are kind of down the street and down the side streets. I thought they were describing something horrendous and I look at Sally and her husband and what they have already done to the property. They are trying to make it nice and pleasant like our property is. I was worried when the property sold who is going to move there. My biggest fear was somebody is going to move in and have

it rented out to maybe a single family. I know if it is rented out to someone that the property goes down. You just don't have the same feeling for property if it is not yours. I was thrilled to death to know that Sally was going to move there with her massage therapy. People are not going to be speeding out. They are going to be going nice and slow down the street. People who get massages are not teenage, that is not the clientele. The clientele will be very relaxed by the time they come out and one or two cars going in and out of there is just not that big of traffic compared to other things. I think they are an ideal business to go in there and I think we should be thrilled as property owners and as people in the single dwelling houses, should be thrilled that someone like Sally is moving into that area. Thank you.

Thoma: My name is Eileen Thoma, I own the reading clinic about a block away from the property in question. Before I had the reading clinic where I am now I was two buildings to the west of her current location and loved watching them make that place fabulous with the flower garden and beautiful trees and they maintain it really, really well. When she told me "Eileen, I am going to move close to you." Number one, I was delighted but I thought where in Colt Square could she put the kind of place she would like because all we have are parking lots and concrete. Then she told me about this little house and then I drove by and thought "Oh, I don't know, it kind of looks like a little rent house and it looks like it needs a whole lot of help!" We walked all around it and she told me all of her plans as far as this tree and that tree and flower beds here and a little lovely path going up for her little old ladies to walk through. I think that it could be just absolutely fabulous. As far as my business is concerned, I would rather a business owned by Sally Wimberly be a block away from me than a rental house be a block away from me. That's all I have to say.

Ostner: Thank you Ms. Thoma. Is there further comment from the public?

Edwards: My name is Bud Edwards, I'm a client of Sally's. The only thing better than getting a treatment when you leave Sally's is approaching her current facility. That is the beauty, the care, the inviting of you into the clinic. I did drive by when I heard she was moving because I was taking my granddaughter who was visiting from Maryland for some Reflexology. When I found out she was moving I was not pleased because I like the environment that she has created there. If you haven't been there you will have to see it, it is a beautiful facility. I understand also the neighbors. I am a neighbor. I'm not in that neighborhood but I'm a neighbor because I am from Fayetteville. I think what would happen with Sally's facility is an improvement in the environment. It will be beautiful. It invites customers like me to come and visit. They are one at a time. I seldom run into anybody else coming in, if I do, it is on my way out and their way in. I think if the neighbors were with her for a while they would find it to be a

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very pleasant type business to be there as opposed to what I think isn't a very attractive facility right now. There are going to be some resources put into that place to bring it up to speed. Just as a client I wanted to talk. I didn't plan to do that tonight, I just came to listen. I'm glad I had a chance to visit with you.

Ostner: If anyone else wants to speak please step forward. I am going to close the public comment session at this point and bring the discussion back to the Commission. I would like to add that we are discussing the rights and attributes of a piece of land. We are not discussing these nice people. We are not discussing what they do with their building or what they will not do. These issues run with the land whether they own it or not.

Allen: I sound a little bit like Lee Marvin tonight but I'm going to speak up because I feel strongly about this. I am certain that the Wimberlys are lovely people and have really good intentions for this property. As our chair just said the zoning goes with the land. They won't be there forever. Other things that could go on the land could be government facilities, trailer parks, offices, we are talking about if the zoning is changed. I can tell you from my neighborhood that a parole office that serves 500 parolees could go into that building. The people bought it surely knowing the zoning of the land so it was a risk that they took. I'm sure that it would be very serene but you have to kind of look into the future when you are talking about land use. Something very near and dear to my heart in Fayetteville is the lack of affordable housing. This particular neighborhood does have some affordable housing. There is quite a buffer that comes off of both ends of the street from a busy Green Acres to Gregg Street on the other end and there are already businesses that have given us some buffer. Mainly, I feel that the transition is already there and I will be voting against this rezoning.

Myres: Staff, is there a reason that the applicant didn't apply for a Conditional Use Permit rather than a rezoning?

Pate: There is. This massage therapy type business could be allowed as a Conditional Use for a home occupation for this property to us and the probably the neighbors, I think it would have been an easy recommendation to make. However, the applicants do not intend to live in the structure and for a home occupation it has to be owner occupied for that type of business.

Myres: I thought that would be an easy compromise. I have to echo some of Commissioner Allen's concerns. It is not the present day and it is not the present proposed use. I know having a delightful relationship with my massage therapist that it is something that everybody could avail themselves of if they can possibly afford it as often as possible. What

concerns me is the encroachment into a neighborhood that has already been encroached upon by an R-O district. The fact that in the future somebody could purchase two or three of these parcels and put up a high rise or something and who knows what is going to happen in the future. I can't in good conscious support this recommendation and so I am going to vote against it.

Vaught: I would tend to disagree. If you look at the map of this piece of property, it is surrounded by R-O. The majority of the sides are touching R-O. It is just an inlet of RSF-4 in an R-O district. If anything, I could see holding the line two properties to the west where the Future Land Use Plan draws a line. I think I would support this rezoning. R-O does limit a majority of the commercial type uses and is a good buffer zone. I understand the concerns of the neighbors and I also understand the desires of the applicant. To me it is just like we are filling in a little peninsula. It is not actually encroaching into the neighborhood. I would see if you went much further to the west that you would be encroaching. To me this is to straighten out the line and give it a little more of a cleaner transition. I would like to remind everybody that this does go to City Council for their blessing. To me at our level we do have certain findings and one that is compatible with the 2020 Plan that the City Council put forth for us to follow and that is one of the main reasons that I will support this.

Lack: In reviewing this I think it has been a struggle to think about encroachment into a neighborhood and to think about propagating that or denying it. I have been down that street several times in the last week and have looked at the neighborhood. I would commend you all on a beautiful neighborhood that is well kept. I think that this particular house I did not find as well kept, which is not any issue. In that, I think that this house, this property is surrounded on three sides by R-O. I think that it is somewhat choked off from the sense of neighborhood that I think we would find beautiful and difficult to encroach upon. In reviewing the current zoning, the building across the street seems to be R-O and the building to the west also. There is a substantial amount of R-O currently surrounding this building with the one exception to the houses to the west. I think with that, I am finding in favor of going with this zoning change as compliant with the 2020 Plan.

Ostner: I have some comments. Some of my comments have already been addressed. I believe R-O is a good buffer between the pretty heavy commercial on Hwy. 71 and this neighborhood to the west of Hwy. 71. When the buffers keep expanding into the neighborhoods why bother with a buffer when you don't have a neighborhood left over? That is really the way I see it. On a map it looks like this parcel is cast out and ought to become R-O but when you stand on the street it doesn't read that way at all. It reads that the line has already been drawn clearly at the Martin

Kieklak building terrifically. That is a great transition. I believe most of Green Acres is R-O as I read the map. The first property abutting an R-O usually has to tow the line to protect the neighborhood. When R-O expands the next property will have to tow the line. Someone will sell, it could become a rental and there is less motivation to upkeep that rental. Then we drive by and that has weeds grown on it and no one has painted it, we should rezone that one too. It just follows. I believe the line has been drawn clearly. I believe this is a terrific neighborhood that has multiple uses already which we promote. It has walk ability and I think this is throwing the baby out with the bat. I think there is a good thing to protect and in order to protect it you have to stop and not keep going. I will be voting against this tonight. I appreciate the applicants and their forth right nature explaining everything that they want to do. I feel very confident that you will do those things but when I have to talk about land use I have to flip over here to 10.5 and think about granting the Wimberlys the right to build a duplex, the right to build a manufactured home park, the right to install offices, studios and related services, which includes a parole office or professional offices. By Conditional Use the R-O would allow eating places, multi-family dwellings, wireless communication facilities, a lot of things. As a land use issue, I don't think those are appropriate for this piece of property. Those are my comments on this issue.

Clark: I have struggled with this particular request since I saw it. I have driven by the house several times and the neighborhood several times as well. I used to own a house on Baker Street. I think that preserving neighborhoods is something that the 2020 Plan also talks about and I'm not really sure that encroaching further into this neighborhood with R-O is advisable. I think this applicant is absolutely exemplary and wherever you open your business it is going to be to the benefit of that surrounding area as long as it is not in a residential neighborhood. Because we are talking about land use, we are talking about what happens after you go out of business, move to Tahiti and retire. We are talking about what comes next. When I look at the next two or three pieces of property that the R-O encompasses in the 2020 Plan that really opens the door to something larger that will encroach even further into a neighborhood setting. This is such a unique neighborhood. There are a lot of people in Fayetteville that don't have a clue that there are houses back there, which is what makes it so unique and so wonderful. I am in support of this applicant's right to have a business. I think from everything that I have heard it is a wonderful business but my conscious will not allow me to vote for this particular rezoning. I am also troubled that the 2020 Plan has R-O extending so far into this existing neighborhood and hopefully when we are talking about the 2025 Plan maybe we will talk about a different line. I know this house needs a lot of work, it is not in very good repair right now. I think this applicant could solve that but it is not just this applicant, it is what goes on after this

applicant leaves this area. I have finally determined I will not support this rezoning.

Graves: I would echo several of the comments made by Commissioners Vaught and Lack. There are a number of R-O properties in this area of course. I wouldn't necessarily characterize this just as a transition or buffer type of situation. What we look at when we look at the General Plan and the Future Land Use Plan is that we want also a mixture of uses. When you are talking about R-O you are talking about the opportunity to have a mixture of different types of low impact uses, whether it be single family or whether it be low impact businesses. This particular zoning request fits right in line not only with that ideal of the land use plan but it also fits with what is touching this piece of property which are other R-O pieces of property. Although it hasn't been necessarily an easy question for me, I can understand struggling with the concept of how far you keep allowing R-O to move. When you look at the Future Land Use Plan as it stands now and not as we hope it to be it allows this piece of property to be office, it says that this piece of property should be office. When you look at the ideal of what you want in these types of neighborhoods, walk ability, services that are within walking distance of single family residences, hopefully low impact types of services, this zoning request fits right in line with that ideal of the General Plan. I would support it for those reasons. I would also support it for the reasons that I understand the neighbor's concerns regarding the lack of sidewalks in the area, but leaving this as a single family residence doesn't solve that problem. There aren't sidewalks out there. It is a cut through right now between Gregg and Green Acres and whether this is a single family home or whether it is R-O, that situation is still there. We would all rather it be different but that is how it is right now. I will be supporting this particular request.

Ostner: I would like to add some questions for staff about this guiding policy, the Future Land Use Map. As I understand it, this is probably a question for Mr. Williams as well as Mr. Pate, as I understand it, the Future Land Use Map and the General Plan are general guiding documents, they are not specific laws or ordinances set in stone. As I recall, we have abrogated on the other side many times that the General Plan and the 2020 have recommended one thing and in good conscious voted against it.

Williams: That is correct. It is a guide. It is not something that you have to follow in locked step. It was prepared and done by the Planning Commission and the City Council with many meetings but obviously, as you are looking at the entire city it is hard to look at every particular parcel exactly right and therefore, it is a guide. It is not the final word. It is something that the Planning Department is certainly going to look at very carefully and I would recommend that you look at it carefully too. Usually I think that you all follow it. You are free to look at each situation independently and

see if in fact, in that particular situation, the 2020 Plan is the correct plan or maybe you disagree with it in that case. You don't have to follow it exactly.

Pate: I would echo that. These are not ordinances, these are guiding policies. I will quote directly out of that guiding policy. "Future Land Use Map and the policies upon which it is based are the official guide to be used when the Planning Commission and the City Council consider Rezoning, Conditional Use and Annexation requests." That is the basis of our recommendation. There is no magic in this job. This was a difficult decision for us to make a finding as well. We had some of the same concerns that the Planning Commission has voiced tonight. We felt ultimately though that when the Planning Commission and the City Council did prepare this plan that there were considerations made. This neighborhood was in it's exact state probably, maybe not as well kept, but it was only five years ago when the plan was adopted. That decision was made at that time with this particular piece of property to be on the Future Land Use Plan as professional office. We are following that recommendation. We feel that it would be a compatible use. We feel that most of the residents here are primarily, if you look on the larger map, the neighborhoods really consist of properties a little further to the west and south along Baker. We saw a Conditional Use request not long ago on Baker for a child care facility at the end of that cul-de-sac and the Planning Commission went and looked at that. We have seen a couple of requests for things of that nature in this neighborhood. You will find most often that Planning Staff does not support the encroachment into neighborhoods and that does disband the integrity of that neighborhood. Most of those rezonings don't come before you because we are not recommending them and therefore, the applicant typically walks away. We feel though that in this case that this recommendation is a sound recommendation while it does have implications for the neighborhood, we do feel that the R-O zoning district, with the guiding policy of the Future Land Use Plan does make it appropriate for our recommendation and obviously, your consideration for that vote.

Ostner: We are lucky to have that document by the way. Most municipalities strive and wish they had that guiding policy for their professional staff to try to make this recommendation.

Williams: I think we should probably advise the petitioner that we have eight Commissioners up here. In order to recommend a zoning change to the City Council it requires five affirmative votes. If the Commission is split four to four then there will not be a recommendation to support the zoning. If they recommended in favor of it then it would automatically go to the City Council. If they do not then you would have an appeal right to take it to the City Council. Basically, in the final analysis, the City Council will

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make a final decision one way or the other on rezoning. I just wanted to let you know that we do have one Commissioner absent today and normally you are given an opportunity as a petitioner if you wish to have a full Commission here to ask to table this if you want to or else you can simply go forward and let the Commission go forward and vote and then you can either appeal if it comes out against you or if the Planning Commission recommended in favor it would automatically go to the City Council.

Ostner: You understand that you need five of our votes and you have the option to withdraw right now, or table, or we can go ahead and proceed.

Wimberly, S.: We just today learned about the Bill of Assurance possibility and I guess we wanted to talk about that and see if that is an option here.

Wimberly, D.: It sounds like from the Commission's standpoint that the future use once we sell is a primary concern that was not expressed in the petitions of the residents where they listed primarily just encroachment and traffic. Again, we found out about this possibility late on Friday evening. We just got a copy of a sample document that could be used of this nature. We are certainly open to something of that nature.

Wimberly, S.: We wouldn't want to do that to that neighborhood. We wouldn't want a trailer park to go into that neighborhood. It would not be our desire to sell the property to whoever.

Ostner: We have no jurisdiction with Bills of Assurance. Mr. Williams, you can help me out, they are done between property owners. Generally you would deal with the POA or the neighborhood group.

Williams: No, the Bill of Assurance actually does run to the city. You are thinking of Restrictive Covenants. A Bill of Assurance though must be volunteered by the property owner. The government, whether it be the Planning Commission or the City Council, cannot ask you to limit the uses or whatever you would do. It would be something that you would need to look at the Use Units in the ordinance and the Planning Staff can help you, maybe just pick out the one that you need and restrict the use to that if you felt like that would be something that would make it more acceptable not only to the Planning Commission but also to the City Council. It would have to be a voluntary decision on your part to offer that to the City Council in order to garner their support for this rezoning.

Ostner: Those Bills of Assurance are in place of this rezoning?

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Williams: No, they are a condition of the rezoning. They are enforceable. I have drafted up a form for the Planning Department. It runs with the land and if someone violated a Bill of Assurance then I would sue them.

Trumbo: I guess we are counting votes to see if this is going to get forwarded. I am going to vote in favor of the applicant's request. We are talking about .26 of an acre. There are no mobile home parks that are going to be built on that. It is currently a rent house. I think R-O is appropriate and I will vote for it.

Vaught: If we were to vote on this and recommend or deny and they either took it forward or appealed forward, could they offer a Bill of Assurance to the City Council?

Williams: Yes.

Vaught: In my opinion, I would like to just keep it going. Either way, the City Council is going to look at it. They can make those changes then and offer it to the City Council based on some of our discussion or if it gets denied on the comments by people denying. I'm not big on tabling stuff and asking the public to come back for another meeting and another meeting. I would not vote to table it. I would like to take a vote and send it forward since it will all get reviewed again.

Ostner: I would agree. I would like to go ahead and vote if you all don't want to table.

MOTION:

Trumbo: I will make a motion that we approve RZN 05-1479.

Ostner: The applicant was about to speak, one moment please.

Wimberly, D.: We are very confused by this whole process. Needless to say, this has been extremely trying deciding to purchase knowing that it was subject to rezoning. Again, this Bill of Assurance concept coming up very late in the process, we are trying to work and get through life as it is. Sally is going to be out of a place to practice very shortly. The process for rezoning is very lengthy. I guess the immediate question was if we decide to table it does that mean that we can introduce the Bill of Assurance later, is that going to be better but is that a whole other month or two weeks?

Ostner: It would be a two week delay but what might happen here in two weeks is you could get the five votes and instead of proceeding to the City Council with a 4-4 split you would be appealing at that point you would possibly

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have a 5-4 and you would be at the City Council. It is the same difference either way.

Wimberly, D.: The same City Council meeting?

Ostner: No, there is a definite time lag. It would be another two weeks.

Graves: Noting for the record that we can't request anybody, and aren't requesting anybody, and I'm not requesting anybody to make a Bill of Assurance but assuming that that was the decision that you all made, I just want to clarify with the City Attorney that my understanding is that that can be done regardless of how we voted tonight. If you got a 4-4 and you are appealing or if it went forward on a recommendation from the Planning Commission, it is my understanding that if it is your decision during the next two weeks, you could decide whether to have that Bill of Assurance.

Williams: I would like to say that the Planning Commission is making a recommendation one way or the other. The City Council is going to look at a 9-0 recommendation different than a 5-4 recommendation. It is obvious that the Planning Commission is fairly split right now down the middle on this. I think whichever way you would go you are probably starting off almost with a clean slate in front of the City Council because they realize that the Planning Commission has stated good arguments on both sides and so they are going to be looking not just at the recommendation of course, but what you will be presenting to them, the Bill of Assurance if you decide to go that way, they will also be listening to the neighbors and the Neighborhood Association. I would think that if you really want to go forward with this you should not ask for a tabling now because it is just going to take you two more weeks at least to get to the City Council level. Then it is an ordinance that is supposed to be read three times so I don't think it will be decided on the first night that the City Council hears it. I know it is a long process because I have rezoned property myself. It is a very long process but if you ask for a tabling it is even longer.

Allen: Mr. Wimberly, have you all had a formal meeting with the neighborhood association?

Wimberly, D.: We asked to be invited to a meeting and apparently the meeting occurred later without our invitation being extended. I personally know Robert Ginsberg just casually. When I found out that he lived on Elm Street very shortly after the rezoning sign went up I emailed him and kind of told him what we were doing, provided him the document that was in your packet about what our plans were. He informed me then that there was a neighborhood association and I immediately volunteered to meet with them. We did focus primarily on contacting the adjacent neighbors.

Again, time to pursue this effort. Later we did make several trips down the street to try to meet the neighbors that we could. We didn't get down Baker Street. We did go down Erstan and Elm Street and visited with quite a few of those people. That is where Sally commented about some of them were informed that it was going to be a medical clinic.

Allen: It would be my recommendation that between now and the time that this goes before the Council that you request to meet with them and maybe some problems can be cleared up through conversation with the neighbors.

Clark: Although I am not asking for a Bill of Assurance nor requesting one, nor any of the other legal language I need to use, had a Bill of Assurance been presented tonight I would have reconsidered my vote. I want to see this as a neighborhood. If anybody is reading the record, depending upon how it is written, what you decide to do if you decide to do it, that would've been a deciding factor in my vote.

Ostner: The applicant still has quite a road in front of the City Council. It sounds like this will go to the City Council regardless of our vote. We were in the middle of a motion I believe.

MOTION:

Trumbo: I will make a motion to approve RZN 05-1479 agreeing with staff's finding that the Future Land Use Map designates the subject property with office.

Lack: I will second.

Ostner: Is there further discussion? Could you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 05-1479 to the City Council failed by a vote of 4-4 with Commissioners Ostner, Allen, Myres and Clark voting no.

Thomas: The motion fails.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 20, 2005

Subject: Ordinance amending Title XV: Unified Development Code, to provide for the regulation of outdoor lighting installations.

RECOMMENDATION

The Planning Commission on May 9, 2005 voted 8-0 to recommend to City Council the approval of Chapter 176: Outdoor Lighting and attached exhibits.

BACKGROUND

In recent years concerns have been raised in the community regarding the installation and operation of outdoor lighting at commercial, industrial, and multi-family residential sites. Obtrusive aspects of outdoor lighting in the form of glare, trespass, energy waste, and sky glow can be effectively managed with consideration to the design, installation, and use, of outdoor lighting fixtures. Staff has researched the use of outdoor lighting ordinances by other communities and has drafted an ordinance that we feel will effectively address these issues with minimum additional staff workload.

Planning staff supports the adoption of **Chapter 176: Outdoor Lighting** and believes that it will address the adverse impacts associated with improperly designed and installed lighting fixtures. Additionally, this ordinance will provide a mechanism to achieve goals outlined in Section 9.12 of Fayetteville's General Plan 2020 which guides policies for neighborhood commercial areas. Specifically, section 9.12b states "Protect adjoining properties from the potential adverse impacts associated with commercial uses adjacent to and within residential areas with proper mitigation measures that address scale and massing, traffic, noise, appearance, **lighting**, drainage, and effects on property values". A good outdoor lighting ordinance works to achieve this policy.

BUDGET IMPACT

Budget impact is expected to be minimal.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, OF THE CODE OF FAYETTEVILLE, TO PROVIDE FOR THE REGULATION OF OUTDOOR LIGHTING INSTALLATIONS.

WHEREAS, unnecessary and improperly designed light fixtures cause glare, light pollution, and wasted resources; and,

WHEREAS, glare and light pollution can result in hazardous circulation conditions for all modes of transportation, the diminishing ability to view the night sky; light trespass into residential neighborhoods; and unattractive townscape; and,

WHEREAS, the City of Fayetteville desires to protect the health, safety and welfare of the general public, and to protect the night sky that adds to the quality of life of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Chapter 151: Definitions, Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting Exhibit "A" attached hereto and made a part hereof.

Section 2. That Section 156.03(C), Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting the following:

§156.03 DEVELOPMENT.

C. Consideration By The Planning Commission.

7. Outdoor Lighting Plan.

a. **Undue Hardship.** So that substantial justice may be done and the public interest secured, a developer may petition the Planning Commission for a variance from the requirements of Chapter 176: Outdoor Lighting, by showing that their strict application would cause undue hardship as applied to the proposed development; provided that such variance shall not have the effect of nullifying the intent and purpose of the chapter.

b. **Conditions.** In granting variances, the Planning Commission may impose such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied.

Section 3. That Title XV: Unified Development Code, Code of Fayetteville, is hereby amended by inserting Chapter 176: Outdoor Lighting, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 4. That Title XV: Unified Development Code, Code of Fayetteville, is hereby amended by inserting "Outdoor Lighting Fixture Examples," a copy of which marked Exhibit "C" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of June, 2005

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

EXHIBIT "A"

To be inserted at Chapter 151: Definitions, Unified Development Ordinance:

DEFINITIONS.

1. *Lamp or Bulb* (Outdoor Lighting) means the light producing source installed in the socket portion of a luminaire.

2. *Luminaire or Fixture* (Outdoor Lighting) means a complete lighting unit including the lamps or bulbs, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

3. *Light Pollution* (Outdoor Lighting) means general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.

4. *Glare* (Outdoor Lighting) means the brightness of a light source that causes eye discomfort.

5. *Disabling Glare* (Outdoor Lighting) means lighting that impairs visibility and creates a potentially hazardous situation for either pedestrians or motorists.

6. *Shielding* (Outdoor Lighting) means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible and no light is emitted from the sides of the fixture. Also considered a full-cutoff fixture.

7. *Accent Lighting* (Outdoor Lighting) means any directional lighting which emphasizes a particular object or draws attention to a particular area.

8. *Spotlight or Floodlight* (Outdoor Lighting) means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Exhibit "B"

Chapter 176 Outdoor Lighting

§176.01 PURPOSE. This chapter is intended to:

A. Protect the privacy of property owners by limiting the potential for glare and light trespass from outdoor lighting fixtures located on adjacent properties;

B. Protect drivers, pedestrians, senior citizens, and the visually impaired from the glare of non-vehicular light sources that can impair safe travel;

C. Promote efficient and cost effective lighting;

D. Allow for flexibility in the style of light fixtures;

E. Reduce atmospheric light pollution.

§176.02 APPLICABILITY

A. All outdoor lighting fixtures installed on private and public property after the effective date of this ordinance shall comply. This ordinance shall not apply to single or two family residential dwellings.

B. All outdoor lighting fixtures existing and legally installed and operative before the effective date of this ordinance are exempt from these requirements unless they are determined to create a disabling glare as defined by this ordinance.

C. When an existing fixture is replaced, the replacement fixture

shall meet the requirements of this article.

D. Compliance with this ordinance shall be administered by the City of Fayetteville Planning Department.

E. In the event of a conflict with any other section of this article, the more stringent requirement shall apply.

§176.03 EXEMPTIONS.

The following are exempt from the provisions of this ordinance:

A. Single and two-family residential uses.

B. Street lights installed prior to the effective date of this ordinance.

C. Navigation lights (i.e. airports, heliports, radio/television towers).

D. Seasonal decorations with individual lights in place no longer than 60 days.

E. Sports field outdoor lighting (i.e. ball fields, soccer fields)

F. Other special situations approved by the City for temporary or periodic events (i.e. parades, festivals, etc.)

G. Security lights of any wattage that are controlled by a motion-sensor switch and which do not remain on longer than 12 minutes after activation.

H. Flags displaying national, state, or local governmental bodies. Flags advertising businesses are not exempt from the provisions of this ordinance.

Exhibit "B"

I. Decorative street lighting located within the Downtown Master Plan boundary.

J. Fossil fuel lighting.

§176.04 SUBMITTALS.

A. Applications for building permits or applications for review by the Planning Commission which include the installation of outdoor lighting fixtures for new construction, shall provide evidence of compliance with the requirements of this ordinance. The submittal shall contain the following information and shall be submitted as part of the site plan to the Planning Department.

B. 1) Plans indicating the location, type, and height of the luminaire including both building and ground mounted fixtures;

2) A description of the luminaire, including lamps, poles or other supports and shielding devices which may be provided as catalogue illustrations from the manufacturer;

3) Photometric data, such as that furnished by the manufacturer, showing the angle of light emission; and

4) Any additional information as may be required by the City Planning Department in order to determine compliance with this Ordinance.

§176.05 GENERAL STANDARDS

The following standards shall apply to all outdoor lighting installed after the effective date of this ordinance,

which is not exempted above:

A. Outdoor lighting shall be hooded, shielded, and aimed downward. Examples of acceptable and unacceptable light pollution control shielding and hooding are shown in exhibit B, attached herein.

B. The hood or shield shall mask the direct horizontal surface of the light source. The light shall be aimed to insure that the illumination is only pointing downward onto the ground surface, with no escaping light permitted shining upward into the sky.

C. Any bright light shining onto adjacent property or streets which would result in disabling glare shall not be permitted. Light trespass beyond property boundaries or above the horizontal plane shall be considered non-compliant.

D. Existing fixtures may be adapted to comply with this ordinance by adding a properly designed hood or shield, or by pointing any upward-mounted, shielded fixture downward onto the ground surface.

E. All outdoor lighting fixtures shall be designed, installed, located and maintained such that all direct illumination is kept within the boundaries of the fixture owner's property.

F. This section may be enforced on the basis of a formal complaint

Exhibit "B"

filed in with the Planning Department.

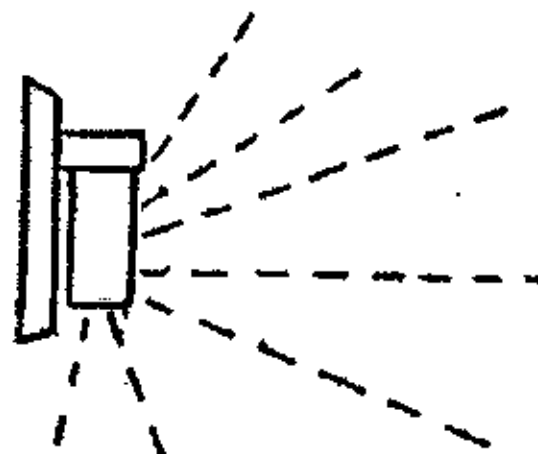
G. Accent lighting, when so approved, shall be directed downward onto the building or object and not toward the sky or onto adjacent properties.

H. Spotlighting on landscaping and foliage shall be limited to 150 watts. The lamp shall be shielded and shall not create disabling glare.

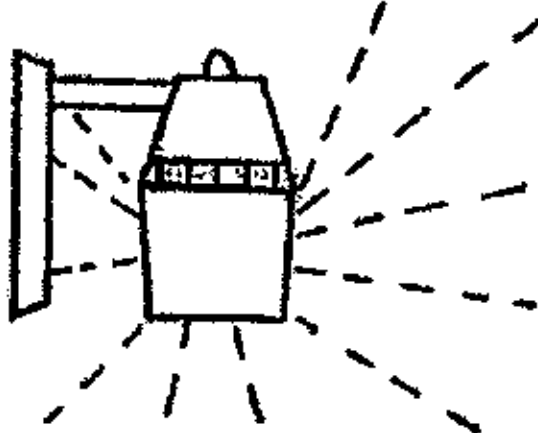
DRAFT

Exhibit "C" - Outdoor Lighting Fixture Examples.

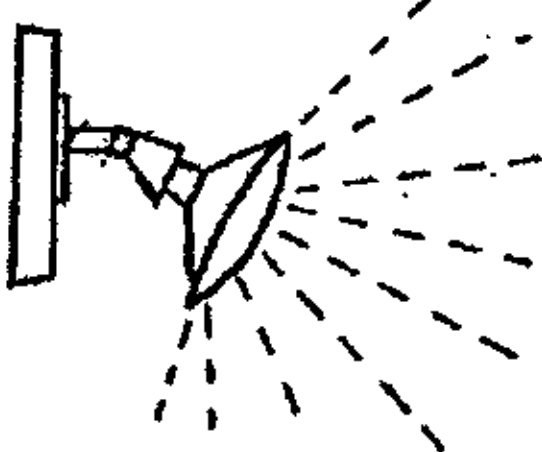
NOT PERMITTED



Typical "Wall Pack Fixture"

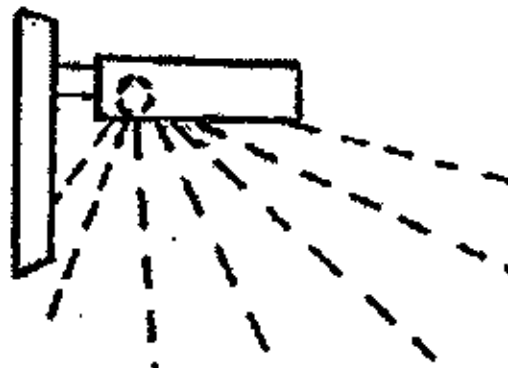


Typical "Barn Light"

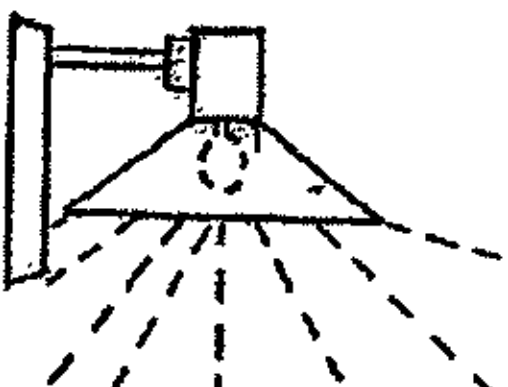


Area Flood Light

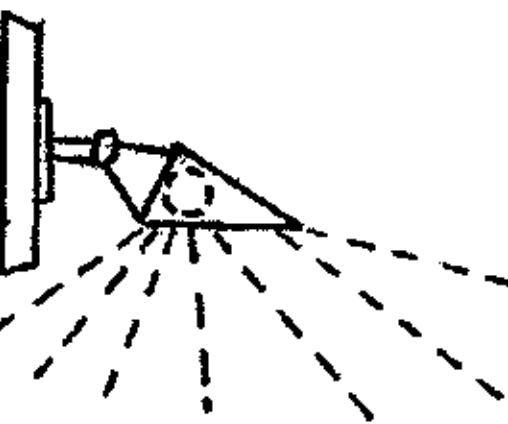
PERMITTED



Typical "Shoe Box Fixture"

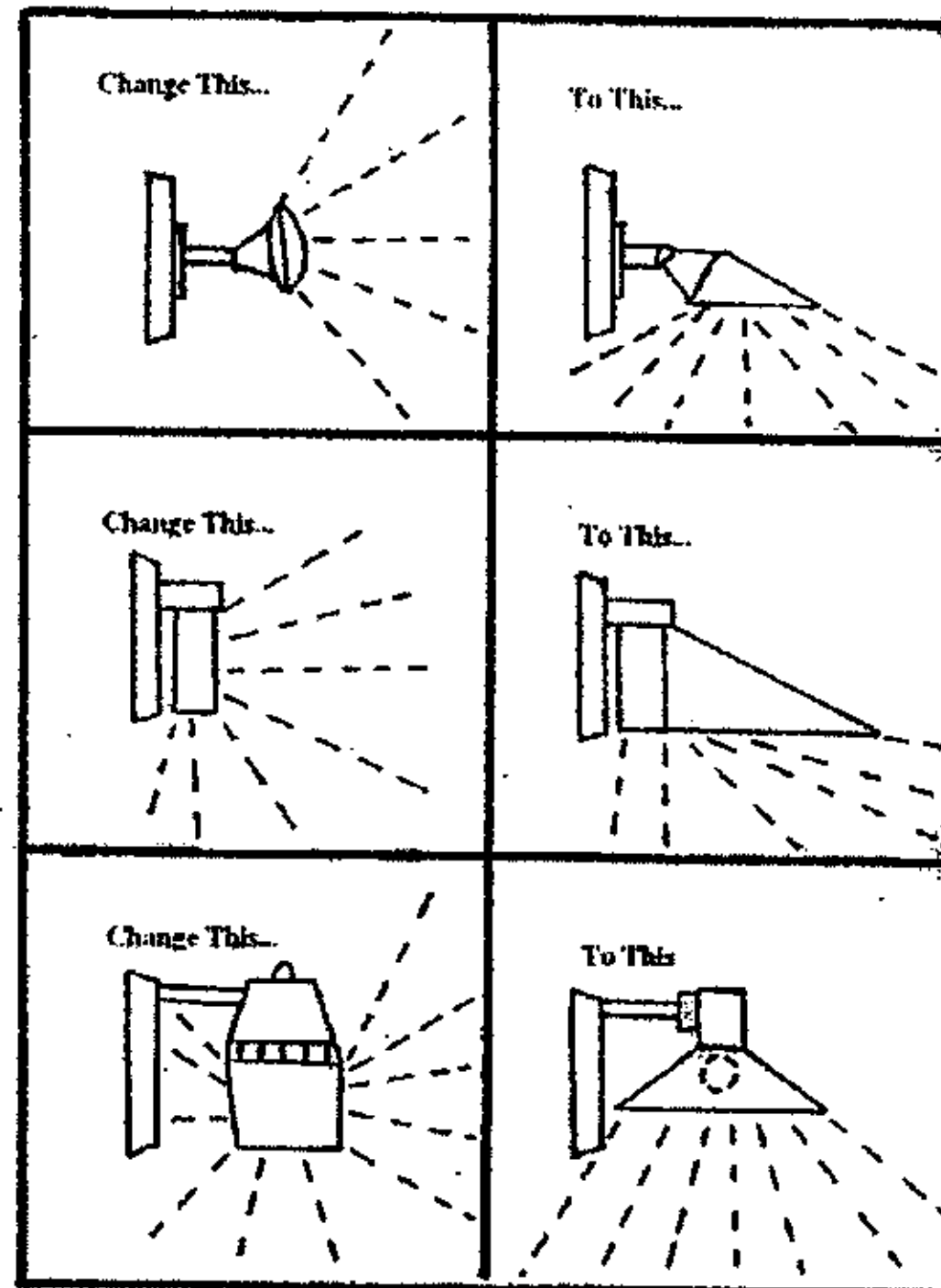


Opaque Reflector (lamp inside)



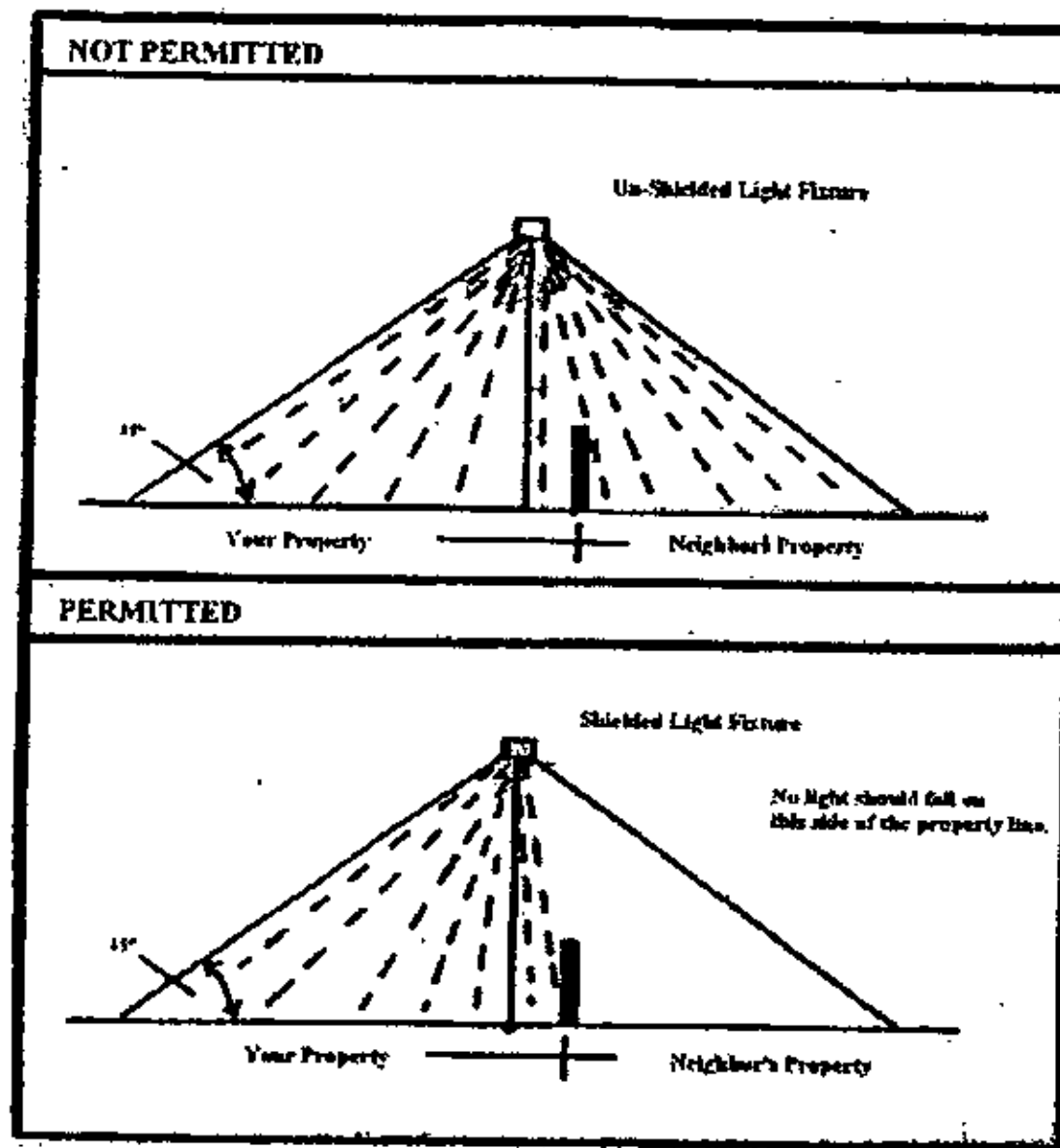
Area Flood Light with Hood/Shield

MODIFYING EXISTING FIXTURES



DRAFT

Exhibit "C" - Outdoor Lighting Fixture Examples.



DRAFT

Stricken language would be deleted from and underlined language would be added to the law as it existed
prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/30/05

A Bill

HOUSE BILL 2665

5 By: Representative Ledbetter
6
7

For An Act To Be Entitled

9 AN ACT TO ENCOURAGE THE USE OF SHIELDED OUTDOOR
10 LIGHTING; AND FOR OTHER PURPOSES.
11

Subtitle

12 THE SHIELDED OUTDOOR LIGHTING ACT.
13
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Title 8 is amended to add an additional
19 chapter to read as follows:

20 8-14-101. Title.

21 This chapter shall be known and may be cited as the "Shielded Outdoor
22 Lighting Act".
23

24 8-14-102. Purpose.

25 The purpose of this chapter is to conserve energy and preserve the
26 environment through the regulation of outdoor lighting fixtures.
27

28 8-14-103. Definitions.

29 As used in this chapter:

30 (1) "Outdoor lighting fixture" means an automatically-controlled,
31 outdoor artificial illuminating device, whether permanent or portable, used
32 for illumination or advertisement, including searchlights, spotlights, and
33 floodlights, whether for architectural lighting, parking lot lighting,
34 landscape lighting, billboards, or street lighting; and

35 (2) "Shielded" means a fixture that is covered in a manner that light
36 rays emitted by the fixture, either directly from the lamp or indirectly from



As Engrossed: H3/30/05

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1 the fixture, are projected below a horizontal plane running through the
2 lowest point on the fixture where light is emitted.

3
4 8-14-104. Shielding - Prohibitions - Exemptions.

5 (a) After January 1, 2006:

6 (1)(A) No public funds shall be used to install an outdoor
7 lighting fixture unless it is shielded.

8 (B) The provisions of subdivision (a)(1) of this section
9 shall not apply to a municipally owned utility if the municipal employee
10 responsible for procurement determines that the cost of acquiring a shielded
11 outdoor lighting fixture will be more expensive than the alternative after
12 comparing:

13 (i) The cost of the fixtures; and

14 (ii) The projected energy cost of the operation of
15 the fixtures;

16 (C) No state funds shall be used for the installation of a
17 shielded or unshielded mercury vapor outdoor lighting fixture.

18 (2) The Arkansas Department of Environmental Quality shall
19 promulgate regulations prohibiting any person or entity from knowingly
20 placing or disposing of lights containing mercury in a landfill after January
21 1, 2008.

22 (3)(A) Each electric public utility shall offer a shielded
23 lighting service option.

24 (B) Not later than January 1, 2006, each electric public
25 utility shall file an application with the Arkansas Public Service Commission
26 to establish a schedule of rates and charges for the provision of a shielded
27 lighting service option to the utility's customers.

28 (C) The Arkansas Public Service Commission shall require
29 each electric public utility to inform its customers of the availability of
30 the shielded lighting service.

31 (b) This chapter does not apply to acquisitions of:

32 (1) Incandescent outdoor lighting fixtures of one hundred fifty
33 watts (150W) or less or other light sources of seventy watts (70W) or less;

34 (2) Outdoor lighting fixtures on advertisement signs on
35 interstate or federal primary highways;

36 (3)(A) Outdoor lighting fixtures existing and legally installed

As Engrossed: H3/30/05

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1 before the effective date of this chapter.

2 (B) However, if an existing outdoor lighting fixture
3 exempted from the provisions of this chapter under subdivision (b)(3)(A) of
4 this section needs to be replaced, the acquisition of the replacement outdoor
5 lighting fixture shall be subject to the provisions of this chapter;

6 (4) Navigational lighting systems at airports or other lighting
7 necessary for aircraft safety; and

8 (5) Outdoor lighting fixtures that are necessary for worker
9 safety at farms, ranches, dairies, or feedlots or industrial, mining, or oil
10 and gas facilities.

11
12 8-14-105. Penalties.

13 Violations of this chapter are punishable by:

14 (1) A warning for a first offense; and

15 (2) A fine of twenty-five dollars (\$25.00) minus the replacement
16 cost for each offending outdoor lighting fixture for a second or subsequent
17 offense or for an offense that continues for thirty (30) calendar days from
18 the date of the warning.

19
20 8-14-106. Enforcement.

21 This chapter may be enforced by a town, city, or county of this state
22 by seeking injunctive relief in a court of competent jurisdiction.

23
24 8-14-107. Provisions supplemental.

25 The provisions of this chapter are cumulative and supplemental and
26 shall not apply within a town, city, or county of this state that by
27 ordinance has adopted provisions restricting light pollution that are equal
28 to or more stringent than the provisions of this chapter.

29
30 /s/ Ledbetter

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ADM 05-1497: Administrative Item: Outdoor Lighting Ordinance (formerly AD 01-15): Submitted by Long Range Planning as a proposal to add an Outdoor Lighting Ordinance to the Unified Development Code.

Ostner: The first item on our agenda is ADM 05-1497 for the Outdoor Lighting ordinance.

Olson: We have before us the outdoor lighting ordinance. As most of you are probably aware, staff has worked on this off and on for quite some time and we feel that this ordinance before you is a pretty straight forward ordinance that will achieve our purpose however, it will have a minimum additional work load for staff in terms of review and things of that nature. I have a short PowerPoint presentation for you tonight. There is the United States from a satellite photo. There is lots of light. The purpose of the outdoor lighting ordinance is to limit glare and light trespass on adjacent properties. Protect drivers and pedestrians from hazardous glare. Promote the efficient and cost effective outdoor lighting while allowing for flexibility and design and the style of outdoor light fixtures. Finally, to reduce atmospheric light pollution. The applicability, any outdoor lighting fixtures in new development would have to comply with the regulations of this ordinance and any outdoor lighting fixtures being completely replaced would also have to comply. There are a number of exemptions from the ordinance. Single and two family residential dwellings. Any street lights that were installed prior to the adoption of the ordinance. Of course, your navigational lights for airports and towers. Seasonal decorative lighting. Sports field lighting. Security lighting that is controlled by timed motion sensors and the decorative street lighting that is located in the downtown master plan area. How this ordinance will be enacted is much the same way as how we now get a landscape plan or a grading plan. At the time of submittal the applicant would provide staff with an outdoor lighting plan. On that plan, the applicant would indicate the location and type of fixture, the description of the lamina or the bulb, including lamps, poles and shielding devices and then also the photometric data showing the angle of light emission. The photometric data is available from the manufacturer of the fixture. Any outdoor lighting shall be coated, shielded, and aimed downward. The hood or shield shall mask the direct horizontal surface of the light source. Light trespass beyond property boundaries shall be considered non-compliant. Again, when an existing fixture is replaced the replacement must meet the requirements of this ordinance. When you speak of shielded fixtures, these are some examples, the bulb is located up in the fixture, no light escapes above the horizontal plain of the fixture. All of that light is directed downwards onto the ground. These are examples of parking lot street lighting type applications. These are wall mounts. You typically see floodlights on walls with commercial type development. These fixtures are all shielded, the light is directed downward. Lighting manufacturers are making more ornamental type

fixtures that are fully shielded so there is a lot of flexibility in design out there. Those are just some examples of what a shielded fixture looks like. This gives you an idea of what it does for you. The fixture on the left is a shielded shoe box fixture, the light is coming down. The pictures to the right are not shielded and the light is going in all directions. That kind of gives you a good idea of the difference in shielded versus unshielded fixtures. It is directing that light down to the ground, not allowing any light to escape above the horizontal plain. I have some pictures of the city. This is a light fixture that is intended to light the canopy of a gas station. The gas station has lighting in the canopy but these fixtures project onto the canopy to light the logo of the company. This is what it looks like during the daytime and this is what it looks like at night. It is 6' off the ground, unshielded, focused up into the atmosphere. If you look past this fixture you see more lighting in the gas company there. Those are not shielded. The lens sags below the canopy so it emits a lot of light out in all directions. This is a typical gas canopy light, convenience store light. Again, you see the bulb is located down in the lens. This is what it looks like at night. These were taken with a digital camera with the flash off. Here is a gas station canopy and that is what it looks like at night. Obviously, there is a lot of glare there. These are typical parking lot type applications. Where the fixture is a good fixture, it is just that it is aimed at a 45° angle so you are not directing that light downward onto the ground, you are throwing it out at a 45° angle. That kind of gives you some ideas. If you drive around the city at night you can see some good and bad examples of outdoor lighting. This ordinance is intended to give a lot of flexibility to the lighting designer while achieving our purpose of directing that light onto the ground and reducing light pollution, energy waste and the glare is the biggest issue with pedestrians and drivers, seeing that glare shine into your eyes from badly installed outdoor lighting. In your packet on 4.1 is the staff report. It kind of walks through some of your basic questions in terms of what does an outdoor lighting ordinance do. How does the proposed outdoor lighting ordinance, what will it regulate, what will it exempt. Then on page 4.3, 4.4, and 4.5 you have the actual ordinance. The ordinance itself is about three pages and then there is another page of examples of fixtures. I would be happy to entertain any questions.

Ostner: Commissioners? I have one question. You handed out this bill from the State Legislature, could you elaborate on that a little bit?

Olson: The State Legislature passed a bill in the last session titled "An Act to Encourage the Use of Shielded Outdoor Lighting and Other Purposes." It is the shielded outdoor lighting act. I became aware of this Friday. The shielded definition is almost word for word the definition that we have in our ordinance. Basically, this state law says that no public funds shall be used to install an outdoor lighting fixture unless it is shielded. For

example, any highway lighting that would be state or federally funded, they would have to put up shielded fixtures. The other thing that it does, in Section 3(a) it says that each electric public utility shall offer a shielded lighting service option. Currently in the City of Fayetteville if you were to develop a subdivision I believe they give you two or three options of street light fixtures that you can put in your development. None of which are shielded fixtures. This state law actually mandates that by January 1, 2006 each electric public utility shall have shielded fixtures for installation. That was a question with previous ordinances as to street lighting and how do we get the utility companies to go along with this. This state law is actually going to mandate that for them. It really works in conjunction with the outdoor lighting ordinance that we have proposed.

- Clark: Does the state law include sports field outdoor lighting?
- Olson: The state law doesn't make mention of sport field lighting.
- Allen: We have been playing around with this for a long time with other efforts, we have taken a league of new employees in order to implement it and I commend you for making this simple enough. I know we could tweak it to the end of the earth but I think you have done a good job and I think it is an ordinance that can be implemented. I am going to move for approval of ADM 05-1497 to be forwarded to the City Council.
- Myres: I will second.
- Ostner: I have a few questions. I would agree that this is a good ordinance and we have been trying to do this for a long time. On page 4.2 we are talking about proposed outdoor lighting ordinances, what uses will it regulate and what uses will it exempt? Will these ordinances apply to parking lots?
- Olson: Yes, they will apply to parking lots in commercial and multi-family residential and industrial uses.
- Ostner: Parking lots for parks or non-commercial uses?
- Olson: That is a good question, I don't know that we address that. It addresses sports field lighting for parks and schools and such as exempting them. I would say that it would. We could clarify that. Jeremy might have something.
- Pate: I don't know that we have specifically indicated exempt or not. I would just make mention that most city divisions are typically required to follow most city ordinances, much like the city follows it's own ordinances for a LSD or the Parks Division does the same. I think there are specific exemptions with regards to certain things but if that is something that this

Planning Commission, the Ordinance Review Committee or the City Council would like to exempt we can certainly pass forward that information to them for their review as well.

Ostner: That is the same reasoning I was thinking. Since we are exempting the Downtown Master Plan lights it was an idea that crossed my mind. On the issue of trespassing onto someone else's property, here again, I understand this is in the beginning phases and has a lot of tweaking until it gets done, I would be interested on whether a property owner's front property line would be considered a property line. There are specific drawings at the bottom of page 4.6 that talk about shielding to not spill over onto the neighbor's property. Front right of way is a form of property line. It is not the same as your side property. I would encourage the staff to look into that. Those are a few of my issues. Are there any other questions from anyone else? At this point I am going to open this issue up to public comment. If anyone would like to speak on the outdoor lighting ordinance please step forward and share your comments. Seeing none, I will close it to the public comment section and bring it back to the Commission. There is a motion and a second to forward, if there is no other comment go ahead and call the roll Renee.

Roll Call: Upon the completion of roll call the motion to forward ADM 05-1497 to the City Council with a recommendation for approval was approved by a vote of 8-0-0.

Thomas: The motion carries.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Jun-05
City Council Meeting Date

Leif Olson
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of an Outdoor Lighting Ordinance for the City of Fayetteville, see attached Staff Report and Ordinance.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

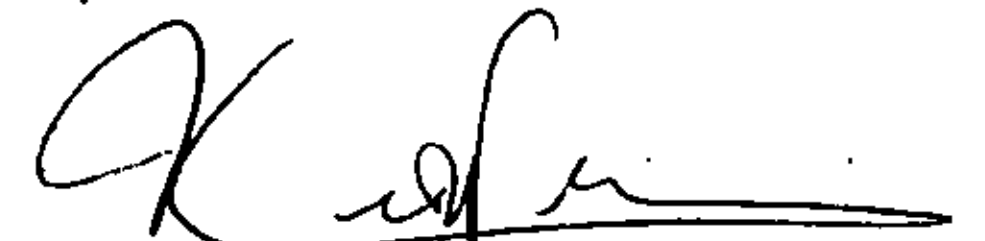
Budget Adjustment Attached ☐


Department Director
5-20-05
Date

Previous Ordinance or Resolution # n/a

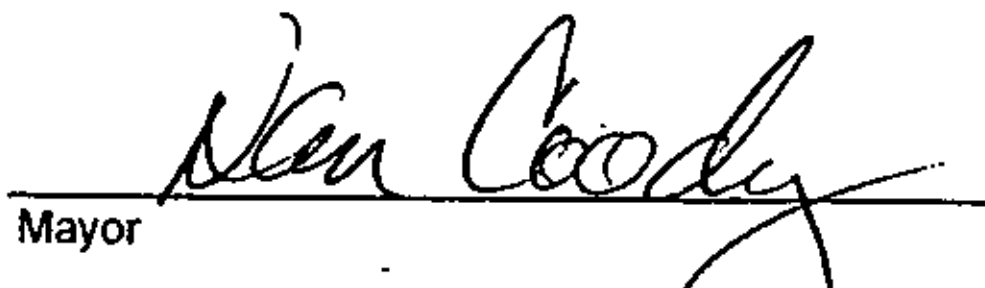
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney
5-23-05
Date

Received in City Clerk's Office




Mayor
5/26/05
Date

Received in Mayor's Office



Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 8
Designating Land For Recreation Purposes
Page 1 of 10

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and Fayetteville City Council

FROM: Stephen Davis, Finance & Internal Services Director 

DATE: May 25, 2005

Subject: Highway 45 East Property, Duncan Avenue Property and Lots 5 and 6 South Gregg Avenue

Recommendation

City Council is requested to approve a resolution formally recognizing the recreational use of 12.91 acres located on Highway 45 East, 1121 South Duncan Avenue and Lots 5 and 6 South Gregg Avenue. I further request City Council reserve up-to 2 acres of the Highway 45 East property as a future fire station site. City Council has the right to designate the purpose of any City-owned property subject to any restrictions that may have been attached to the land either by deed or by source of funds.

Background/Discussion

Highway 45 East

On April 15, 2003 City Council approved a land swap between General Fund and Water & Sewer Fund that included approximately 12.91 acres on Highway 45 East. The property on Highway 45 East was transferred from Water & Sewer Fund to General Fund so the City would have more options for the public use of the property. Resolution 56-03 approved the property transfer from Water & Sewer Fund to General Fund. This request would designate 12.91 acres for recreation purposes and recognize a possible future use of up-to 2 acres for a future fire station.

1121 South Duncan

City Council approved the purchase of 2.46 acres located at 1121 South Duncan subject to the Town Branch Neighborhood Association raising matching funds. Town Branch Neighborhood Association was successful in raising commitments for the matching funds prior to the option to purchase lapsing. The closing is scheduled once the City receives the balance of committed money and will be an asset of General Fund. This property is proposed to be designated for recreation purposes.

Lots 5 and 6 South Gregg Avenue

The City granted neighbors permission to use two City-owned lots for a community garden. The property is an asset of Street Fund. City Council has two options – 1) transfer the property from Street Fund to General Fund and then designate it for recreational purposes and 2) leave the property within Street Fund and document the record that, at some future date, the land could be used for Street Fund purposes. Staff recommends transferring the property from Street Fund to General fund

to remove any future confusion concerning the intent of city Council and designating the property for recreational purposes. If this option is accepted, then an appraisal will be needed to establish the fair-market value for the transfer.

Budget Impact

Except for the cost associated with the transfer of Lots 5 and 6 Gregg Avenue from Street Fund to General Fund the budget impact is minimal.

RESOLUTION NO. _____

A RESOLUTION DESIGNATING 12.91 ACRES OF MUNICIPAL PROPERTY LOCATED ON HIGHWAY 45 EAST FOR RECREATION PURPOSES, RESERVING UP TO 2 ACRES FOR A FUTURE FIRE STATION; DESIGNATING 2.46 ACRES LOCATED AT 1121 SOUTH DUNCAN AVENUE FOR RECREATION PURPOSES; AND TRANSFERRING LOTS 5 & 6 ON SOUTH GREGG AVENUE FROM THE STREET FUND TO THE GENERAL FUND AND DESIGNATING THEM FOR RECREATION PURPOSES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby designates 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates 2.46 acres located at 1121 South Duncan Avenue for recreation purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby transfers Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designates them for recreation purposes.

PASSED and APPROVED this 7th day of June, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ALFEST:

By: _____

SONDRA SMITH, City Clerk

RESOLUTION NO. 56-03

A RESOLUTION APPROVING THE EXCHANGE OF CERTAIN
REAL PROPERTY BETWEEN THE WATER & SEWER FUND
AND THE GENERAL FUND AND APPROVING A BUDGET
ADJUSTMENT FOR SAME.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

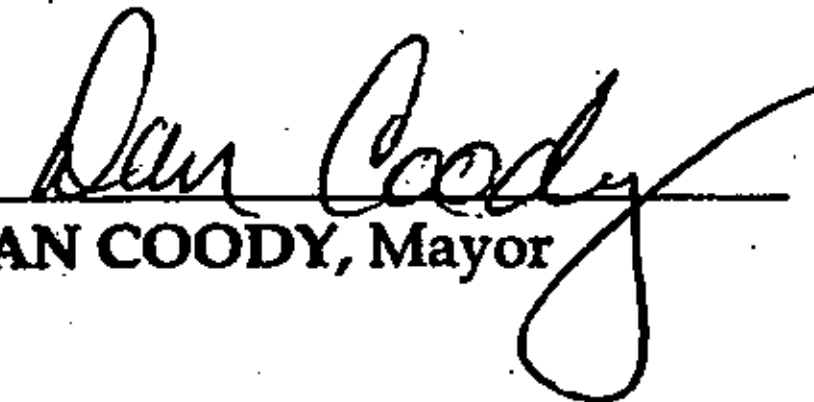
Section 1. That the City Council of the City of Fayetteville, Arkansas,
hereby approves the exchange of certain real property between the Water &
Sewer Fund and the General Fund.

Section 2. That the City Council of the City of Fayetteville, Arkansas,
hereby approves a budget adjustment for same.

PASSED and APPROVED this 15th day of April, 2003.

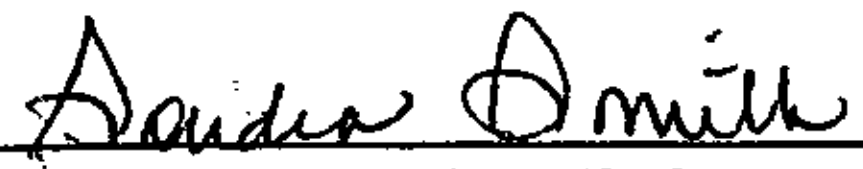
APPROVED:

By:


DAN COODY, Mayor



By:


SONDRA SMITH, City Clerk



RESOLUTION NO. 147-04

MICROFILMED

A RESOLUTION SUPPORTING THE EFFORTS OF THE NEIGHBORING PROPERTY OWNERS TO PURCHASE 2.46 ACRES LOCATED AT 1121 SOUTH DUNCAN AVENUE FROM JAMES MATHIAS BY CONTRIBUTING THE REMAINING BALANCE FROM THE TREE AND TRAILS FUND; DISCHARGING THE TREE AND TRAILS TASK FORCE; AND ACCEPTING THE FINAL REPORT AND RECOMMENDATIONS OF THE TREE AND TRAILS TASK FORCE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

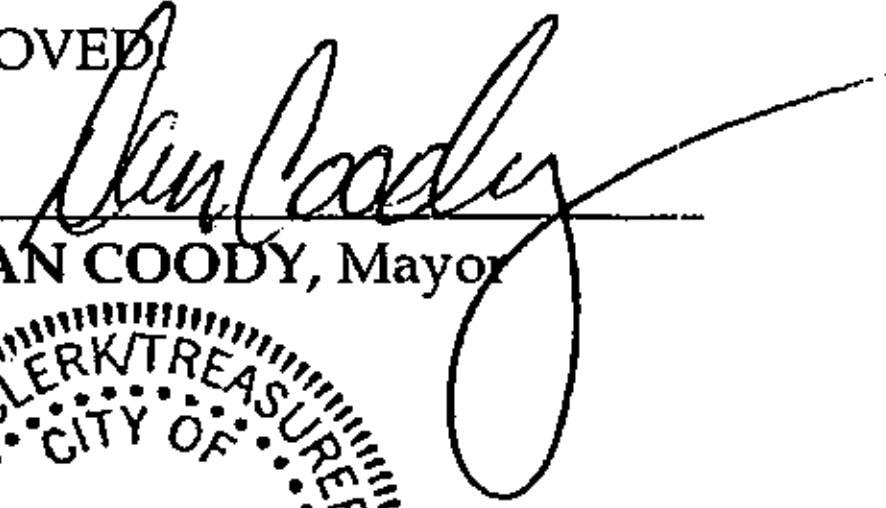
Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby supports the efforts of the neighboring property owners to purchase 2.46 acres located at 1121 South Duncan Avenue from James Mathias for a City Park or Green Space by contributing the remaining balance from the Tree and Trails Fund as recommended by the Tree and Trails Task Force, provided that in the event the neighboring property owners are unable to raise the remainder of the purchase price by May 1, 2005, the remaining balance shall be allocated toward the purchase of Scull Creek Trail Corridor rights-of way.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its gratitude to the members of the Tree and Trails Task Force for their dedicated service to the community, and finding that the Task Force has completed its duties under the Settlement Agreement in *Serafini et al. v. City of Fayetteville*, hereby officially discharges the Tree and Trails Task Force.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby accepts the Final Report and Recommendations of the Tree and Trails Task Force, a copy of which, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 21st day of September 2004.

APPROVED

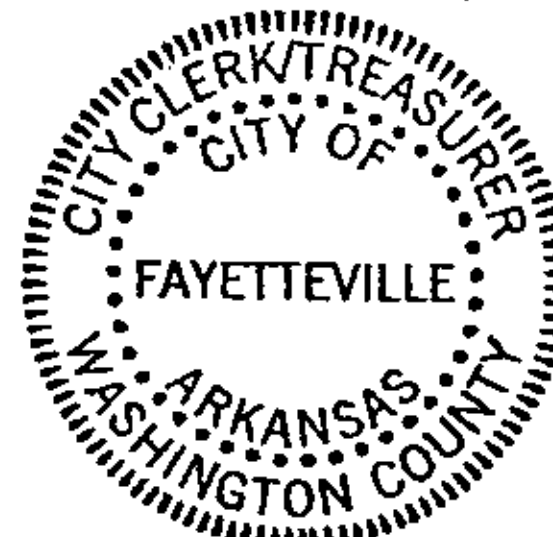
By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk



Duncan Ave property?

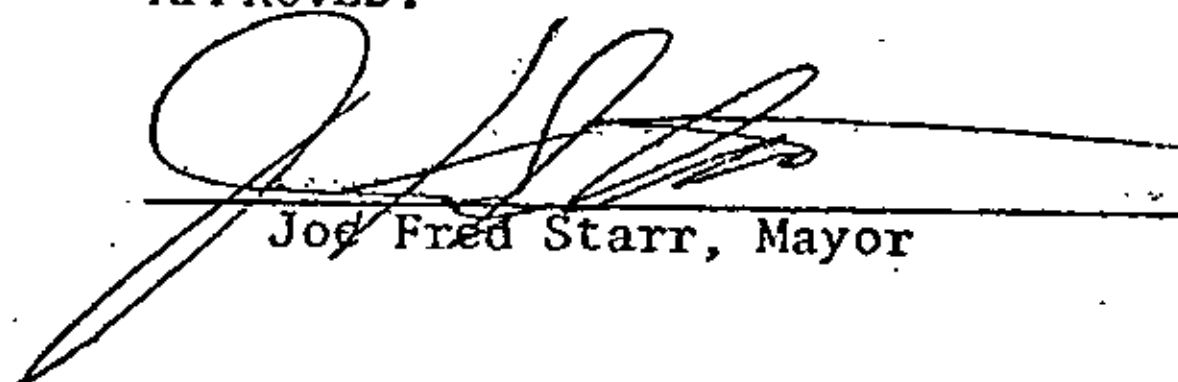
RESOLUTION NO. 77-71

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

That the City Manager be, and he hereby is, authorized and
directed to purchase Lots Numbered 5 and 6 in Hall and Gallaher
Addition to the City of Fayetteville at a total purchase price
of \$1,068.63.

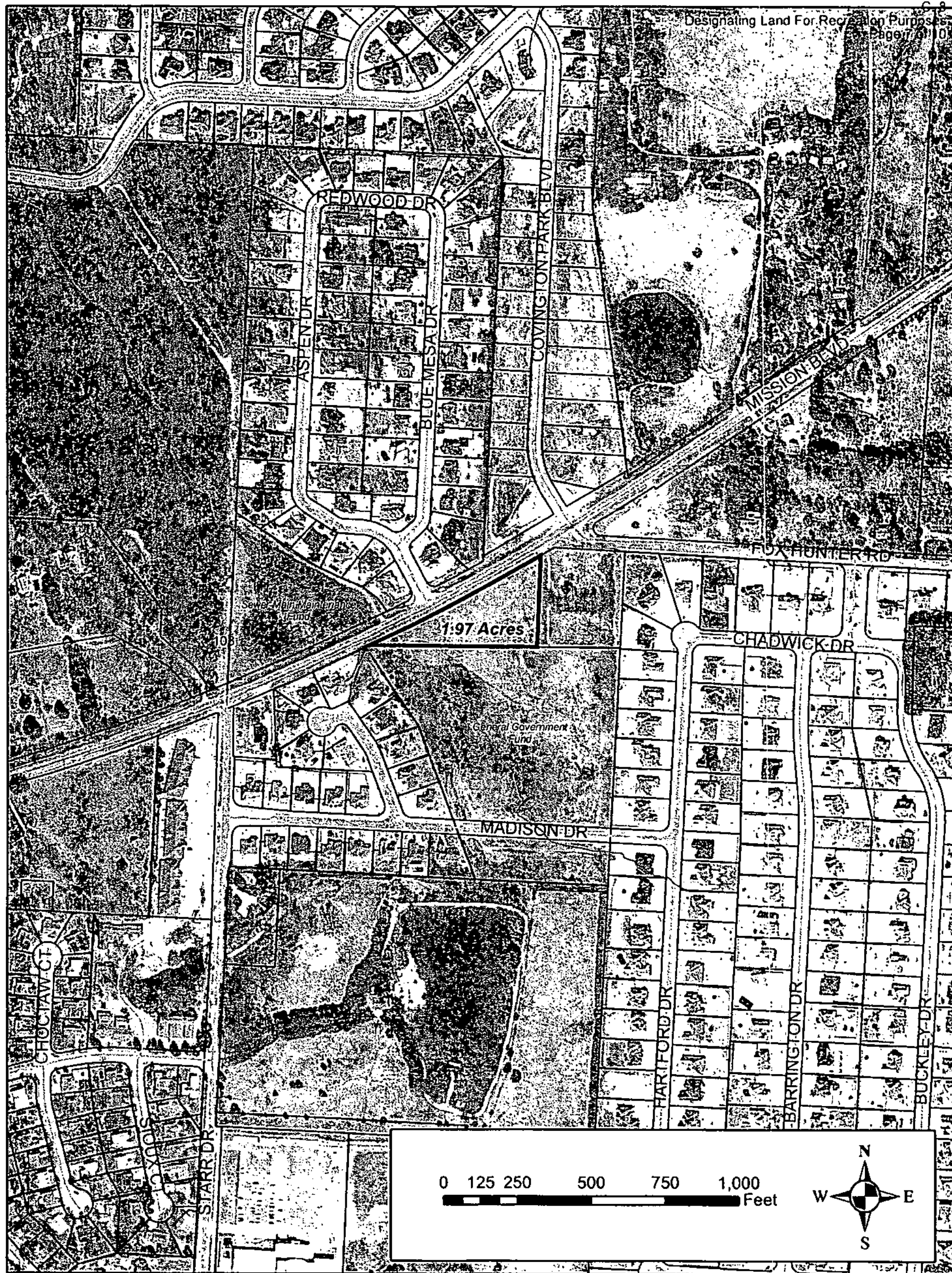
PASSED AND APPROVED this 1st day of November, 1971.

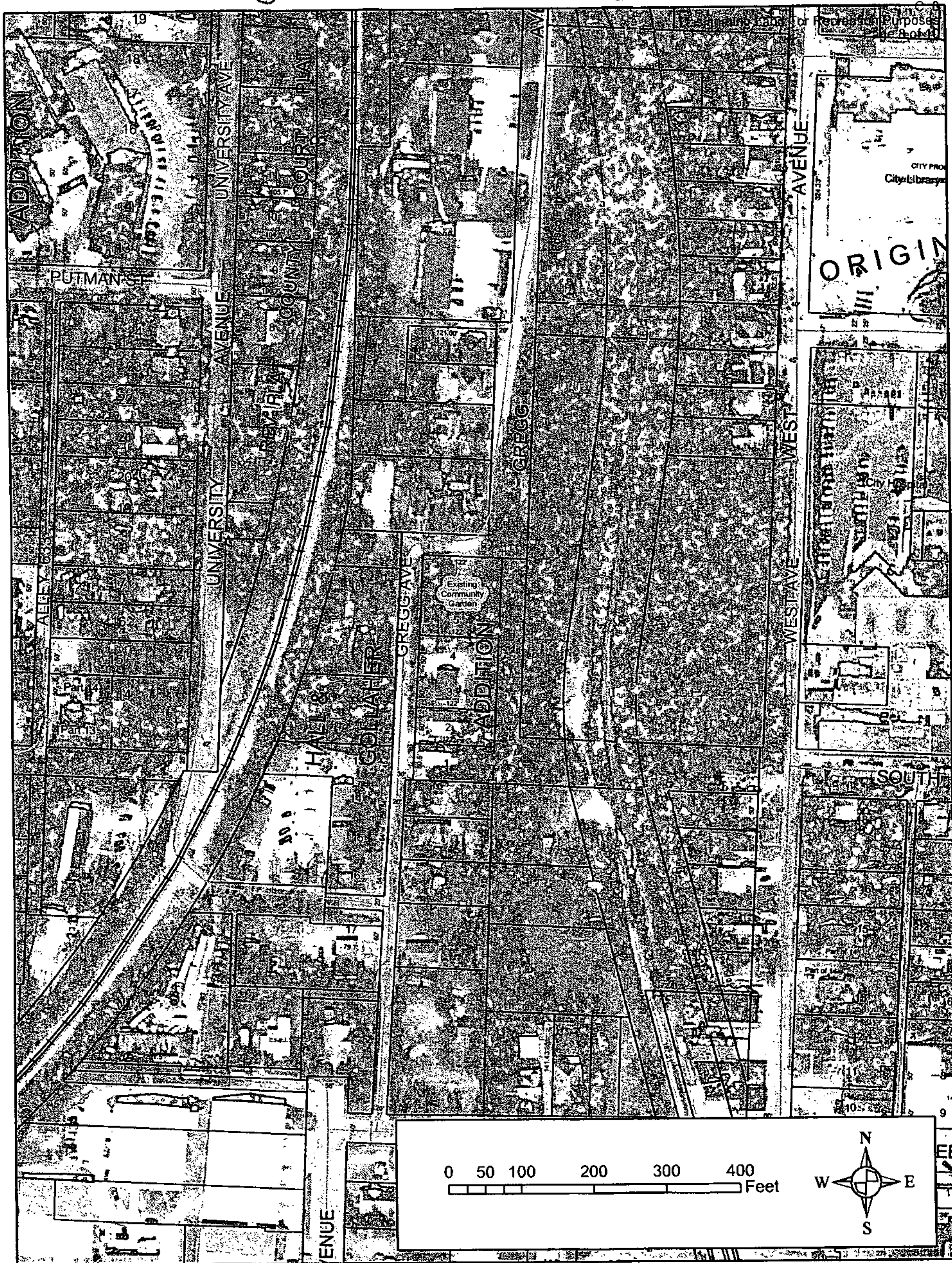
APPROVED:


Joe Fred Starr, Mayor

ATTEST:


Lovetta Moore, City Clerk





City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

7-Jun-05
City Council Meeting Date

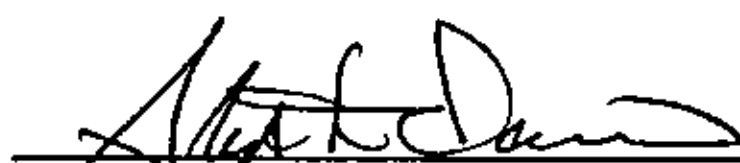
Stephen Davis FIS Director Finance & Internal Services
Submitted By Division Department

Action Required:

City Council approve a resolution designating 12.91 acres for recreation purposes and recognizing up-to 2.0 acres may be needed for a future fire station along Highway 45 East, designating 2.46 acres at 1121 Duncan Avenue for recreational purposes and transfer Lots 5 and 6 South Gregg Avenue from Street Fund to General Fund and designating for recreational purposes.

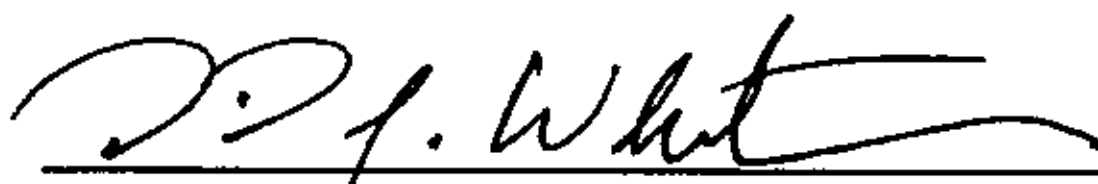
None at this time		
Cost of this request	Category/Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ N/A Budget Adjustment Attached ☐


Department Director 5-25-05
Date

Previous Ordinance or Resolution # 56-03, 147-04
and 77-71

Original Contract Date: _____


City Attorney 5/25/05

Original Contract Number: _____


Finance and Internal Service Director 5-25-05
Date

Received in City Clerk's Office



Mayor 5/25/05
Date

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 17, 2005

Subject: Ordinance amendment to add an additional Planned Zoning District (PZD) option to allow applications to be approved as a Master Development Plan without submittal and approval of a large scale development or preliminary plat.

RECOMMENDATION

The Planning Commission voted 8-0-0 on January 10, 2005 to recommend to the City Council Planning Staff recommends approval of the Planned Zoning District Amendments.

BACKGROUND

Staff has brought forward amendments to the Planned Zoning District ordinance to address several issues that have been discovered since the passage of the ordinance in 2002. The following amendments are addressed in the proposed ordinance:

- Significant reduction in the amount of design and engineering required for submittal (No Large Scale Development and Preliminary Plat Required for land use changes)
- Standardization of required information for all PZD's Master Development Plans.
- Increased amount level of detail in written form as a "Statement of Comments" to clarify what is presented to the City for approval
- Authorization to phase projects beyond the current expiration of approvals
- Authorization to administratively approve minor modifications

At the ordinance review committee on April 27, 2005, the committee discussed the idea of having PZD's that don't include preliminary plat and large scale development go directly to the City Council.

The committee asked staff to present this idea to the Planning Commission and get their comments. Staff has attached their comments regarding this issue.

The overall goal of this amendment is to meet the informational needs of the citizens, elected and appointed officials, the development community and staff to make informed policy decisions regarding land use changes within the community without development approval (Preliminary Plat and Large Scale Development).

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 166.06 PLANNED ZONING DISTRICTS (PZD), AND SECTIONS 161.25 (C), (D), AND (E) PLANNED ZONING DISTRICT, TITLE XV OF THE UNIFIED DEVELOPMENT CODE, FAYETTEVILLE CODE OF ORDINANCES, TO ALLOW MASTER DEVELOPMENT PLANS TO BE SUBMITTED AS AN OPTION WITHOUT SUBMITTING A SUBDIVISION OR LARGE SCALE DEVELOPMENT AND CLARIFYING OTHER REQUIREMENTS, CONDITIONAL USES, AND DEVELOPMENT STANDARDS PLANNED ZONING DISTRICTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Section 166.06 Planned Zoning Districts (PZD), Title XV of the Unified Development Code, Fayetteville Code of Ordinances, is hereby deleted in its entirety and replaced in its stead by Exhibit A, attached hereto and made a part hereof..

Section 2. That Sections 161.25(C), (D), and (E) Planned Zoning Districts (PZD), Title XV of the Unified Development Code, Fayetteville Code of Ordinances, is hereby amended to add the following section under R-PZD, C-PZD, and I-PZD:

Conditional Uses. All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

PASSED and APPROVED this 7th day of June 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

- (4) *City Council.* If the **PZD master** development plan is approved by the Planning Commission, it shall be forwarded to the City Council for review. The City Council may grant or deny as submitted, or as they may so amend, defer for requested changes or more information, or return the application to the Planning Commission for further study. The applicant shall not modify to a design other than that reviewed and approved by the Planning Commission prior to City Council review. The City Council may direct the Planning Commission to reconsider specific aspects of the plan. If the master development plan is approved, an ordinance shall be prepared which incorporates the plan, **statement of commitments, development and architectural standards, and conditions.**

(5) Development and Subdivision Approval. Preliminary Plat and/or Large Scale development approval is required for all PZD Master Development Plans.

- (6) *Appeals.* Appeals from the action of the Planning Commission shall be in accordance with Chapter 155 Appeals of the UDC.
- (7) *Repeals.* The owner of an approved planned zoning district may, for cause, request repeal of the ordinance establishing the development when it has been determined that the development will not occur. A written request may be filed with the city clerk at any time up to three (3) years after the date of adoption of the ordinance creating the planned zoning district. The request shall be addressed to the Mayor and City Council, setting forth the cause for repeal.

The request shall be set for a public hearing at the earliest possible time to expedite the required action. The owner of the subject planned zoning district zoned land shall provide notice of hearing to adjacent property owners. Notice to others as required by law shall be provided by city staff and signs shall be posted.

(D) General Requirements.

- (1) ***Application of a Planned Zoning District is permitted only in accordance with a master development plan prepared and approved in accordance with the provisions herein. Large Scale Development, Site Plan, and/or Preliminary Plat approval may be concurrently processed through the PZD process.***
- (2) ***Planned Zoning Districts may be controlled by one or more owners and shall be developed under unified control or by a unified master development plan. The owners, successors, heirs, or assigns shall be bound by the approved master development plan, including any modifications or amendments thereto as approved by the Zoning and***

Development Administrator or City Council.

- (3) **Master development plans may include more restrictive regulations than that which is included in other sections of the UDC, but standards shall not be established that fall below these minimum standards.**

(E) Approval or Rejection Criteria For Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the General Plan 2020;**
- (2) Whether the application is in compliance with all applicable statutory provisions;**
- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;**
- (4) Whether the proposed rezoning is compatible with the surrounding land uses;**
- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;**
- (6) Whether the intended land use would create traffic congestion or burden the existing road network;**
- (7) Whether the planned development provides for unified development control under a unified plan.**
- (8) Whether any other recognized zoning consideration would be violated in this PZD.**

(F) Master Development Plan Summary and Required Information

Master Development Plan (MDP) is a useful tool for both developers and planners to reach consensus and agreement about the way an area is developed, where a variety of uses and impacts may be proposed on one property. They differ from engineered site plans in that they address the bigger picture, rather than the minutia of a detailed engineered site plan. A MDP should depict the larger planning issues such as basic densities, open space, access, internal circulation, availability and location of existing water and sewer, existing topography, drainage, and the general location of uses, while giving the developer some leeway to address grading, utility construction, street construction, building placement, driveways, and number and location of parking spaces further along at the development review or building permit stage.

The following information shall be submitted by the applicant in written narrative form:

(1) The name and address of:

- (a) landowner/applicant**
- (b) representative, if applicable**

(2) General project concept:

- (A) Street and Lot Layout**
- (B) Site Plan Showing Proposed Improvements**
- (B) Buffer Areas**
- (C) Tree Preservation Areas**
- (D) Storm Water Detention Areas and Drainage**
- (E) Undisturbed Natural Areas**
- (F) Existing and Proposed Utility Connections And Extensions**
- (G) Development and Architectural Design Standards**
- (H) Building Elevations**

(3) Proposed development phasing and time frame

(4) Proposed Planning Areas, described and depicted (Planning Areas (PA) are those areas within an MDP designated with specific zoning and development standards, as required herein. Any number of PA's may be allowed within an MDP, subject to approval by the City Council.)

(5) Relationship to the existing and adjacent land uses

(6) Impacts on City services

(7) A traffic study when required by the Planning/Engineering Divisions.

(8) An analysis of the site characteristics related to the proposal, including any environmentally hazardous, sensitive or natural resource areas. Describe any natural or manmade hazards.

(9) Compliance with the Fayetteville General Plan 2020

(10) A description of the recreational facilities, including existing and proposed park sites, open space and accessibility to parks and open space areas.

(11) Proposed Zoning and Development Standards

(12) A chart comparing the proposed master development plan to the current zoning district requirements.

(13) Any other required information as applicable when other applications are processed in conjunction with the PZD master development plan application (i.e. preliminary plat, large scale development).

(G) Master Development Plan Level of Detail

(1) Sheet 1

- (a) The name of the proposed master development plan shall be centered at the top of the sheet along the long dimension of the sheet.**

(b) The following wording shall be placed verbatim on the sheet:

GENERAL PROVISIONS

Authority

This PZD master development plan is authorized by Sections 161 and 166 - Planned Zoning Districts of the City of Fayetteville Unified Development Code. The provisions of this PZD master development plan shall run with the land. The landowners, their successors, heirs, or assigns shall be bound by this master development plan, as amended and approved by the City Council.

Adoption

The adoption of this PZD master development plan shall evidence the findings and decision of the Fayetteville City Council that this Planned Zoning District for (name of development) is in general conformity with the Fayetteville General Plan 2020; is authorized by the provisions of Sections 161 and 166 of the City of Fayetteville Unified Development Code.

The provisions of this PZD master development plan shall prevail and govern the development of (name of development), provided, however, that where the provisions of this Master development plan do not address a particular subject, the relevant provisions of the City of Fayetteville Unified Development Code, as amended, or any other applicable resolutions or regulations of the City of Fayetteville, shall be applicable.

Enforcement

To further the mutual interest of the residents, occupants, and owners of the PZD Master development plan and of the public in the preservation of the integrity of the Plan, the provisions of this Plan relating to the use of land, statement of commitments, development and architectural standards, and the location of common open space shall run in favor of the City of Fayetteville and shall be enforceable at law or in equity by the City without limitation on any power or regulation otherwise granted by law.

Conflict

Where there is more than one provision within the PZD Master development plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator.

Maximum Level of Development

The total number of dwellings or the total commercial, business, or industrial intensity approved for development within the Planning Areas is the maximum development requested for platting or construction. The actual number of dwellings or level of development for commercial, business, or industrial properties may be less due to subdivision or site improvement plan requirements or other requirements of the City Council.

Project Tracking

At the time of subdivision final plat, ~~site plan~~, or large scale development the applicant shall provide a summary of the development, to date, to the Planning Division, in order to assure maximum development limits are not exceeded.

(2) Sheet 2 Zoning and Development Standards By Planning Area

The name of the proposed PZD master development plan shall be centered at the top of the sheet along the long dimension of the sheet. The proposed zoning and development standards shall be formatted to follow the established UDC zoning format. Beginning in the upper left hand column of the sheet, state the following for each Planning Area category, e.g., single family:

**Permitted uses by Use Unit
Conditional uses by Use Unit
Land Use Density and/or Intensity
Bulk and area regulations
Lot width minimum
Lot area minimum
Land area per dwelling
Setback requirements
Height
Building area
Landscaping
Parking
Site Planning
Architectural Design Standards
Other standards or requirements provided in the UDC shall apply to this PZD Master Development Plan
Complete legal description. The staff planner may allow this to be provided on a separate sheet, if lengthy.**

(3) Sheet 3 Master Development Plan.

The name of the proposed PZD master development plan shall be centered at the top of the sheet along the long dimension of the sheet. This sheet shall graphically depict the site and include the following:

- 1. A block in the lower right hand corner, or along the right hand margin, which includes the following:**

North Arrow

**Graphic and written scale at 1" = 100' or 1" = 200' or as otherwise approved by the Zoning and Development Administrator or staff planner
Date of Preparation**

- 2. Vicinity map that depict the relationship to the surrounding area within a 1 mile radius.**

The vicinity map shall be superimposed on a current City of Fayetteville Plat Page, on a current City of Fayetteville Zoning Map, and on a current City of Fayetteville Master Street Plan maintaining the same scale .

- 3. Dimensions, bearings, and control points along all exterior property lines.**
- 4. Topography shall be shown at maximum 10' contour intervals, including high and low spot elevations and shadow areas of 15% or greater slope. The staff planner may request that other significant topographic conditions be depicted at greater or lesser intervals where appropriate.**
- 5. Access**
 - (1) Arterials and collectors shall be depicted in all planning areas.**
 - (2) Trails as coordinated with the Parks Division**
- 6. Existing easements/right-of-way**
- 7. 100 year floodplains, floodway, and stream/creek centerline**
- 8. Proposed Land/ROW/Easement Dedication**
- 9. Public or private, regional and community parks, open space and trails shall be depicted and referenced by number, letter or symbol. Local park dedication shall be determined at the time of platting/development.**
- 10. Planning Areas – Areas Identified for a Specified Permitted and/or Conditional Uses**

All planning areas and open space areas shall be shown overlaid on topography at a scale that clearly delineates the

planning area boundaries so that they can be located on the site.

For each planning area shown on the development plan or within a separate table, indicate the following, as applicable:

- A. Acreage**
- B. Number of dwelling units**
- C. Land use designation**
- D. Residential density**
- E. Nonresidential square footage**

NOTE: The number of dwellings indicated in the Planning Areas is the maximum number of dwellings requested, the total of which cannot exceed the total number approved for the proposed PZD. The density range for each Planning Area, when calculated to the maximum proposed, shall not exceed the total number of dwellings for the entire PZD. The actual number of dwellings approved by the Council may be less than shown on the plan due to subdivision or site improvement plan requirements or other requirements of the Council and Planning Commission.

11. Land Use Table

A separate land use table, which indicates the total land use for the planned development, shall be prepared as follows utilizing the following categories and symbols: Partial Example:

SYMBOL	LAND USE	DENSITY	UNITS	ACRES	%
SF	Single Family	3	120	40.0	26%
MF	Multifamily	9	765	35.0	23%
DP	Dedicated Parks	-	-	42.5	28%
SUBTOTAL		8.38	885	117.5	77%
C	Commercial	566,280 sq. ft.		25.0	17%
I	Industrial	217,800 sq. ft.		9.0	6%
O	Office				
M.U.	Mixed Use				
		SUBTOTAL 784,080 sq. ft.			34%

(H) Statement of Commitments.

The statement of commitments shall be provided in the following format:

"STATEMENT OF COMMITMENTS"

The statement of commitments shall, in all cases, describe the development commitments including a method for assigning responsibility to heirs, successors, or assigns, and timing of the fulfillment of these commitments for the following:

- 1. Dedication: Proposed public dedication for parks, streets, drainage, sewer, water, etc., either in specific acreage dedication (referenced by symbol) or specific cash in lieu of land or facilities. Describe the proposed ownership, utility provision, improvement schedule, and maintenance provision. In all cases, dedicated land shall be conveyed to the City of Fayetteville.**
- 2. On or off site improvements: Provision shall be made for the construction of, or payment of fees for, community or off site improvements through current UDC requirements for guarantee of improvements at the time of development.**
- 3. Natural Resources and Environmental Sensitive Areas Such as Trees, Wetlands, Floodplain**
- 4. Project phasing restrictions**
- 5. Fire protection**
- 6. Other commitments imposed by the City**
- 7. Parks/Trails/Open Space Commitments**
- 8. Proposed Preliminary Building Elevations (Residential and Commercial)**

(I) Amendments to the PZD Master Development Plan.

The Zoning and Development Administrator shall determine whether an amendment request shall be considered a minor modification or a PZD City Council rezoning based on the criteria established herein. The applicant may appeal the Zoning and Development Administrator's decision to deny an administrative modification within 10 working days of said decision to the council, in writing.

(1) Minor Modification - Criteria

An amendment request may be considered as an administrative minor modification if it meets the following criteria:

Building Setbacks –An increase or decrease of the required building setback when such modification is no more than a 20% change to the originally approved setback.

Minimum Lot Size –An increase or decrease of the minimum lot size when such modification is no more than a 20% change to the originally approved minimum lot size.

Building Height -An increase or decrease of the building height when such modification is no more than a 20% change to the originally approved maximum building height.

Increased Number of Dwelling Units -An increase of the number of dwelling units in a planning area of 20% or less. Such increase shall be accompanied by a corresponding decrease in dwelling units in another planning area located within the same approved PZD Master Development Plan.

Decreased Number of Dwelling Units -A decrease of the number of dwelling units in a planning area up to 20%. Such decrease shall result in a net loss of dwelling units unless these units are concurrently approved as an increase of units in another planning area.

Commercial/Non-residential Development Intensity An increase or decrease of the square footage of development intensity when such modification is no more than a 20% change to the originally approved development intensity.

Text Changes -Insubstantial changes to the text, as determined by the Zoning and Development Administrator, to add clarity, when such changes do not change the commitments.

Street Alignment -The Zoning and Development Administrator upon review by the City Engineer shall determine whether an insignificant shift in the alignment of a street shall be considered as a minor modification require no amendment.

(2) City Council Approval. Rezoning through the PZD process is required to modify any aspect of the PZD which is not allowed under the Minor Modification process. A planning area within a Master Development Plan may be amended separately from the remainder of the approved master development plan with City Council approval.

(J) Phasing. Phasing of a PZD master development plan may vary from the requirements of Chapter 166 of the UDC with regard to the expiration of permits and plans only when phasing has been identified, described, and approved as part of the PZD master development plan process.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.
- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.
- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
 - (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.
- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall **be used as general guidelines to establish parking and loading standards for the PZD master development plan.**
- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.
- (6) *Sidewalks.* As required by §166.03.
- (7) *Street Lights.* As required by §166.03.
- (8) *Water.* As required by §166.03.
- (9) *Sewer.* As required by §166.03.
- (10) *Streets and Drainage.* Streets within a PZD may be either public or private.
 - (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City **unless otherwise approved by the City Council as part PZD master development plan.**
 - (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, a minimum 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.

- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.
- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall guarantee to the City completion of the nonresidential facilities **in the amount no less than 150% of the estimated cost of said facilities.**
- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.
- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.
- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.
- (E) *Revocation.*
- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased **master** development **plan** schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff may report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, detention ponds, drainage structures, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities ██████ be approved by the City Attorney. The Planning Commission shall consider and approve the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.
 - (f) The association must be able to adjust the assessment to meet changing needs.

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ADM 04-1326: Administrative Item (PZD Ordinance Amendment)

Ostner: The next item on our agenda is ADM 04-1326. An administrative amendment to the PZD Ordinance. If we could have the staff report please.

Pate: This item, before you tonight staff is recommending that a formal recommendation be brought up by the Planning Commission and sent on and processed. This is an amendment to our Planned Zoning District Ordinance. As you may know, there are two sections in our Unified Development Code that talk about the Planned Zoning District Ordinance. The first section is Chapter 161, Zoning. The second is Chapter 166. All of these amendments, as shown and as indicated in your packet, refer to Chapter 166. The entire Ordinance has been submitted here with strikeouts in bold areas where revisions have been submitted for your review. This is a significant amendment of this Ordinance. Mr. Williams, correct me if I am wrong, this passed back in early 2003, so it's been about two years on the books now. There has been a learning process of this Ordinance, which was very new to the City of Fayetteville, and a lot of questions both by City Council and by the Planning Commission, by the general public, developers and property owners questioning this new process, as we fully anticipated. Any new process is going to come under some certain amount of scrutiny and will need revising and tweaking to get to a better point. One of the larger issues that we have dealt with is how to process some of the larger projects that you have seen. A couple of the projects specifically have been larger than, for instance, a developer could design everything for all the parking lots, the commercial buildings the homes, the lots, could not be platted and shown to you on such a large scale at 100, 200, 300 acres. That is a weakness that we feel is in the existing ordinance that does need to be addressed. A couple of other items that did need to be addressed are amendments to the Planned Zoning District that we currently have really no way to amend a Planned Zoning District Ordinance that is easy to process. Additionally, phasing, sometimes these larger projects especially require phasing, we currently on the books for all development plans have a one year time frame in which you have to get your building permits, your construction permits. When you're developing 200 acres, there's sometimes not the ability for a developer or property owner to be able meet that time frame. So we're going to address some of those issues with these larger projects with these Ordinance Amendments. Of course, we will not go over all of the Amendments for you but just to hit some of the highlights, what this Ordinance does create is what's called a Master Development Plan. Any Planned Zoning District would be required to go through what's called the Master Development Plan, which is outlined in pages 2, 3, 4, 5, 6 and 7 in your packets. What that does is standardized those things. It gives you sheet one, this is the information that needs to be included. Sheet 2, this is the information that needs to be included and likewise on sheet 3. A couple of the options that are available, you can process just the Master Development Plan with these

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three sheets. What that would get you is some sort of conceptual type of plan, you would create your Zoning District, you would create your firming by creating the Zoning District. If you look in your Chapter 161, in the Zoning Ordinances, they would create that table of information, the land uses permitted, uses even permit like conditional use, the bulk and area requirements, set backs, density, the land intensity if it's a commercial project, the maximum square footage for each one of the areas they're looking at developing. It would not be a formal subdivision or a large scale. On the other hand, if you would like to process like the process we do now with the Preliminary Plat or a Large Scale Development which is the current means by which an applicant processes a Planned Zoning District, you still have that option. You can still submit your full building elevations and, if the City Council approves it, you submit for your building permit the next day if you have that ability. This does not take that out of the hands of the smaller property owners that would like to develop as well. What it does it does is it does add three sheets essentially and some information that would need to be required with the Master Development Plan. In an effort to standardize and help make this information a lot more clear. Like I mentioned, what it does, it does add some new things, it does tweak some old things. You will notice some changing like the phasing items, some of the amendment items is brand new so we had to kind of come up with that by looking at Ordinances across the country that do allow amendments, it would allow for an Administrative Amendment within a certain percentage so that you would not have to come back for another rezoning request or go before the City Council and Planning Commission every single time they wanted to change something. There are, of course, allowances in there and a percentage set so, if the Zoning & Development Administrator feels that the intent of the original ordinance is not being met, then it would come back to the Planning Commission and City Council. As I mentioned, some of the existing, I think probably one of the more important things for staff and hopefully for the Commission and Boards looking at that, is with the projects, it would standardize a lot of things. Some of the problems that we face in recommending applicants and property owners to process these projects is how much time it would take, how much money it would take, that is an often question with the Planned Zoning District Workshop, the Planning Commission and City Council held last fall I believe, those were a lot of the questions, not wanting to spend all the money up front in the design phases just to present a project to you to see if you felt, and the City Council felt, the land use was appropriate. This Master Development Plan would allow for that sort of conceptual idea. It would also establish standards. It would establish development commitments. It would establish things that the developer could commit to within reason obviously, as part of this development and it would vest certain development rights or at least zoning rights for these properties. I guess with that, I will leave it up to any questions that you might have. Again, staff is recommending that the Planning Commission make a recommendation on this tonight for approval.

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This will need to go before the Ordinance Review Committee as well as our Legal Department to make sure everything is in order before it gets to the City Council. We're excited about this new ordinance and I think it's got a lot of positive things that need to be changed to the existing ordinance.

Ostner: Thank you, Mr. Pate. At this point I will bring it to the Commission for discussion.

Shackelford: Jeremy, if you would just to make sure this is clear in my mind. I am just a dumb old banker so I have got to think real slow on these sometimes. As I read through this PZD Master Development Plan is basically the new concept, in a lot of areas we're striking the language of large scale development, preliminary plat, that sort of thing. That basically has to do with the phasing. Assume that we have a thousand acre project that comes through with the PZD Master Development Plan. In my understanding, is that through that plan, they will be able to say this 400 acres is residential, this 200 acres is office, this piece is multi-family without having to particularly prepare preliminary plats for the residential, come forward with large scale development, that sort of thing. Is that correct?

Pate: That is correct and staff has proposed in some of this language the term "planning area" which at the agenda session was questioned, maybe we need to utilize another term because we have the overall planning area outside the city limits. Currently, what we have here is essentially, for instance, that 1000 acre parcel, you could establish the usage, the density or the intensity of commercial office space, the building height restrictions both maximum and minimum, the green space requirements, the parking standards for instance, you could establish your ratio at that time for each one of those areas and essentially it would be like more of a diagrammatic drawing. You would still be using some of the Concept Plats that you have previewed. It would not be a subdivision of land unless the applicant is choosing to go forward with that full process and they want to subdivide that full 1000 acres. But this would allow for those areas to be identified within certain means and establish a Zoning District specific to each one of those.

Shackelford: As those areas are further developed, the traditional Large Scale Development and Preliminary Plat, those processes will remain in tact as they are today. Is that correct?

Pate: That is correct.

Shackelford: Assume that the developer wants to make changes. What is the process after the concept, or the Master PZD Development Plans, in place, what process would they have to go through to modify that original proof?

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Pate: The amendment section in our Ordinances basically has two options. You can, if it's deemed an administrative modification sort of like our minor modifications for large scales now, it could be administrative to a certain degree. There are certain restrictions, you can find that in Section I, Amendment to the PZD Master Development Plan. The Zoning & Development Administrator would have the ability to a certain degree to modify certain densities for instance in a planning area set backs, building envelope, green space requirements within a certain percentage. Keep in mind however, say you have two planning areas and you have a maximum number of dwelling units, if you want to increase one, you have to decrease the other. The maximum, the ceiling is set with the rezoning process. But this allows a little bit of flexibility within the planning area. So if the developer dependent upon their marketing plan of the development at that time occurring, that they would have that flexibility. The other process would be a straight rezoning if it changes more than this or if the Zoning & Development Administrator feels that whatever modification is being presented does not meet the spirit and intent of the original ordinance as it was passed by the City Council, they can deny that. There is an appeal section in this that they could appeal within 10 days to the City Council.

Shackelford: So where it states that you have a minor modification is density of 20% or less, that you say would have to still fall under the cap that the entire project was originally approved under?

Pate: That is correct.

Ostner: For administrative changes.

Shackelford: Right, for administrative. Anything beyond that would have to come back before this Board and that process.

Pate: That is right.

Shackelford: Okay. I will defer to the board this time. I have one more question that I can't think of.

Anthes: I just wanted to say to Staff that this is a much improved ordinance. I appreciate that you all had the meeting with us and the developers to start talking about how to outline this process and agree with Jeremy that the Master Development Plan is a good way to start talking about larger tracts and some smaller ones. I still have a question though. The PZD Ordinance is really the only method for us to get a true mixed use development in the live areas of Fayetteville and I am concerned still when we do this Master Development Plan that we're encouraging this 40 acres of single family, 40 acres of multi-family, something of this, something of that, that again does not allow for the kind of complexity that we're looking for in creating

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community in larger tracts of lands. How are we going to handle that? What about this ordinance is going to help support people that are trying to do that kind of use in their projects?

Pate: I suppose the way it would support that is that this Planned Zoning District does allow, any Planned Zoning District as we see currently, does allow for this mixture of uses by any means which the developer or property owner wishes to do that within obviously, certain bounds. The way we have it written, we support those mixtures of uses with mixtures of density, building types, commercial types, office types, residential types within the same planning area for instance. However, it really is left up to the creativity and the willingness of the developer to do that. This is the method of the vehicle by which that property owner may pursue those types of developments. It's really up to them though to have the willingness and education, most of which are outside of this community at this time. We are seeing some mixed use developments but it's bringing that information in and looking at those types of mixed use developments within the city that we are trying to support with this ordinance.

Anthes: If we're talking, let's use the 1000 acres and kind of breaking it into manageable parcels to come through with basically the preliminary or the large scale process. Is there's something in the messiness of mixed use that is going to make those internal divisions unclear and difficult for a potential developer to document for us or do you think that it can be accomplished easily? The reason why is if sometimes something is a lot harder to do, it doesn't get done. It gets done in the more simpler way and I just want to make it the most easy to have people think creatively and think in this way we can talk to them.

Pate: I suppose that the flexibility in this allows for that creativity to bring itself forward. For instance, we're not requiring the developer to establish 10 planning areas per 1000 acres for instance. They can have one big planning area and the amount on the uses, all uses permitted by right, within that one Zoning District. If that's something that the Planning Commission and City Council would like to see. It is staff's opinion that creating this vehicle allows for those mixtures of uses. So you can have planning area number one that is 10 acres right in the middle of the property. I am just using theoretical bounds here, that has a mixture of single family, Use Unit 8, multi-family is Use Unit 26, Use Unit 12 office/commercial spaces, Use Unit 25 which is more intense commercial types of uses. Those could all be located within the exact same planning area. It would establish the maximum square footage for instance within that planning area. So that's kind of why we would like to utilize the existing Zoning District. It is relatively easy to see and recognize the density permitted and the use units permitted so it would read like the chart does and the charts do in Chapter

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161 where you see RSF-4, the use is permitted, the Conditional Uses, the bulk and area requirements. This would read much in the same manner. The uses permitted could include any type of uses they would like. I think you're correct that most of the uses that we typically review with Planned Zoning Districts are either single use Planned Zoning Districts or multiple use Planned Zoning Districts divided into separate area. I think that's more of a challenge for the developers than really it is for us to mandate how the developer or property owners develop. Again, that speaks to bringing in that creativity project into our system. We will gladly process it.

Anthes: I guess I just wanted to hear from Staff that they felt comfortable that this was not making it anymore difficult to create those kinds of districts. It might make the lines on the page a little fuzzy here or a little more circuitous than squared off blocks of certain kinds of zoning but it sounds easy enough to do.

Pate: I think too, you have to keep in mind that we would process 1000 acres if you need to use that as an example, as one Planned Zoning District, we would have the legal description that our GIS could map and say this is the Planned Zoning District. Within those planning areas, we would also likely have area tabulations in the using of the supply for those specific areas and I guess in contrast, I feel that Creating a Master Development Plan, by standardizing some of the information will make it more clear. I think that the fuzzy lines will go away a little bit because you can reference things that we already have in our Ordinance. For instance, I will refer back to the Chapter 161. You're creating your own zoning district and that's definitely a challenge for staff to get across to potential applicants and developers, is that they are customizing their own zoning district and this will allow them to follow this table, follow this chart. Here's where this information goes. Here's the commitments I need to fulfill and the development standards, architectural standards, everything of that nature that the applicant needs to present to the Council.

Vaught: Following up on that, for an example this is the way I have to think of what we have seen, the project, the mixed use project that is just out the Southern View, that had office and residential. For instance, that project, if it came through on that, would have one planning area with its use units for the office and for the residential then they would just specify how many square feet of office. How many units of residential, correct?

Pate: That's correct. In a couple of different ways. Sorry to interrupt.

Vaught: That's what I am asking.

Pate: They could process a Master Development Plan without showing full blown elevations and everything and actually establish their architectural standards,

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establish an idea of what you=d like to see or they could process exactly what they did which is a large scale development along with this new criteria that we have established with the Master Development Plan. So yes, you are correct. It would likely be one planning area with the number of uses, the maximum dwelling units and the maximum square footage, building heights, etc.

Vaught: Thank you.

Ostner: So, am I understanding this, that if this passes the MDP that is being laid out here. There are no drawings required, no, well when I say no drawings, no elevations required, that the statement of commitments could have some sketches that flesh out their ideas, their plat could, as Ms. Anthes said, have fuzzy lines. The lines are approximate and they=re going to go a little bit one way or a little bit another. Is that, am I understanding that clearly?

Pate: Well, I think if you read the Ordinance, it would require some drawings to be submitted. We require property boundaries for instance, legal descriptions, things of that nature. Anyway, you=d have to set out those planning areas and depending upon the way the architect or the applicant=s architect or engineer, designer, landscape architect might present that it could very well include conceptual elevations. What we have seen on concept plats in the recent past, an idea of what to expect from this project. Those would be kept on file and be filed just as part like we see with any Planned Zoning District we see today. They could include just statements such as, for instance, an architectural development standard, all structure shall have fronts facing the street with no parking located in the street. That is one example of a standard that they could establish there and you would expect to see that written information so that you can clearly see what the applicant is committing to at that point.

Ostner: I am trying to envision the first large acreage PZD, we had to wrestle with at springwoods and, in my mind, if springwoods had had this tool they, please correct me if I am wrong, they would not have had to lay out their subdivision. I guess, Subdivision was the first big meeting we had on springwoods. That subdividing of land was also their land use and that=s really where we got bogged down, is that we=re talking about land use, we wished we were talking about development. They were not ready to talk about development. So springwoods would go totally differently if this were in place.

Pate: Potentially, I mean again, it could.

Vaught: It could. Okay, that=s what I was hoping to hear.

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Pate: I think that a lot of the questions that came up from the Planning Commission and Council on that specific project were a lot of, not necessarily the details but, what would lead to the details. Ms. Clark, for instance, questioned many times, what is this going to look like and I think that with some language in here about development standards and their commitments to specific items that we have listed in this Ordinance, for instance, green space, architectural standards, tree preservation, we don't expect to review a full blown tree preservation plan for 1000 acres. Please do not submit that. What we expect to see is the intent and what the developer is doing with that. And then as the development comes in as a subdivision or a large scale development, we would then be able to evaluate those based on what we have in our development ordinances.

Vaught: I have one question and this is just on our stand point and administering and approving these, I guess, PZD=s, Master Plan Developments, whatever. We=re going to see a number of them come through and I think each time they=re going to have a little bit different material and what I=m worried about is, you know, we have someone come through that gives tons of detail which is above and beyond holding the next person that comes through to that same standard, I just want to make sure that there=s a clear, not a clear minimum, but I think, we as Commissioners, and this might be an issue outside of the Ordinance, it may be direction from City Council, I don=t know but where we have something to rule it by because that is what our charge is. I=m worried a little bit about that having a different set of standards produced by someone that would be way out to the ballpark but that is way beyond what we need someone to do and I just kind of wondering how we=re going to judge that.

Pate: I suppose my response is that this Ordinance is established, like our Development Ordinances do establish, the minimum requirements and the minimum=s have been cut so to say with regard to the Master Development Plan. You can refer to page three, we will have specific findings on number E 1-7, where these are met. Like the rezoning for instance, the specific findings would need to be made. Item F, it tells you where on the page one, where their pieces of information go. Item G, the Master Development Plan level of detail talks about sheet one and there=s some information there that would have to be included. I agree there are some developers that will go above and beyond and we will continue to support that because it will give the Commission and Council even more information to make your decision based on our Ordinance requirements. I would also state though, as I mentioned, that this is establishing the minimums. Number two, the permitted uses, conditional uses, land use density, bulk and area regulations, lot width. These are all the same type of information that any zoning district is required to have if you have a piece of property in RMF 24 zoning district. You know exactly what you can do within that zoning district, if you meet

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the development guidelines. In addition though, it establishes some items here in the bottom parking ratio, architectural design standards and then any other standards or requirements provided in the UDC. They have to meet, at minimum, they have to meet the Unified Development Code. So they can always exceed that but they do have to meet the minimums.

Vaught: I guess my question comes in on some of the additional criteria. For instance, we're talking about would we see pictures or not, would we see drawings and, from my understanding, is maybe. It's not required necessarily if they outline it in enough detail in written word and so that's just where I want to be sure that we're clear on that and with the city attorney that we are sure we have enough understanding from our point to be able to interpret and hold the fair standard.

Pate: I guess in response, this would be processed through the full development review cycle just like any plan. It is a Planned Zoning District so we would go through Technical Plat Review in order to determine if there is, for instance, major transmission lines that they need to stay away from because that is going to be important information for them in the development of their development plans. It would go through Subdivision Committee so, if there's not enough information submitted, they would need to get some more information, some drawings or some photos. It would get to the Planning Commission and again Council level so it would follow the same development track in, just like Plan Zoning District. Hopefully, we would get to a better result after a few have been processed. There are always going to be questions. I mean, there's never going to be a standard that you can get every project in. I think this does a much better job than what we have on the books.

Myers: I agree.

Shackelford: These are great theoretical questions and I need to go back on the technical side. I remember the other question I had. On section letter J, on phasing, phasing with PZD Master Development Plan may vary from the requirements of chapter 166, the UDC with a guard to expiration of permits. Only when phasing has been identified described and approved as part of the PZD Master Plan. How may the expiration of permits vary? Is that defined in here somewhere and I missed it? What is the new variations of expiration dates that is allowed by this change?

Pate: It is not varied by specific reference. Basically, this is what we have for phasing currently for a Master Development Plan for this amended PZD Ordinance. Currently the requirement is you have one year to get your building permits or construction permits. You may apply for an extension for an additional year. If Planning Commission grants that, you have two years and then once that two year period is up, if you still have not gathered

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all your permits for that project, you have to resubmit. All permits that have been gathered are null and void. This allows for a bit of discretion on the part of the Planning Commission and the City Council to allow for a time period. We did not set a specific time period because I think it will vary again with the size of the project but what we did set out is that the applicant is required, if they're going to phase the project, they have to submit it to the Planning Commission and City Council for approval. In which phases are going to happen by how many years or how much amount of time. The reason that phasing came into effect was because there were a lot of projects that had not been built and were approved decades ago and had never been built and then they were all of a sudden built. City Council passed essentially a sunset clause stating that you had to get all these permits, all these projects built and now we have, by Ordinance, a one year expiration date.

Shackelford: So this was purposely written vague to the point that the one year expiration is taken out by this but there's no final sunset clause to this. Is that correct?

Pate: It does not have to be taken out. It says it may vary. I mean, if no phasing is submitted, it would be one year.

Shackelford: So go back to my theoretical 1000 acre development, we want to see the big picture so we require a PZD. The final piece of that is town homes that they are going to have to permit within a year or come through this process for an extension. The extension that could be approved by the Planning Commission/City Council could exceed another year. Is that correct?

Pate: I think by writing this by what we anticipate occurring is that, with the initial project, the applicant would set out the phasing schedule and planning area one would be complete by a certain or within a certain amount of time and planning area two would be complete within a certain amount of time. The Planning Commission and City Council will use their best judgment, as you do in all of these decisions, to see if that's a fair amount of time. I know that there are times when the two years for certain projects still don't seem like enough time but our Ordinances don't allow for any extension beyond that so we have not yet set that out. If that is something that the Commission would like to see, we can take a look at that. As I just said, ultimately three years or ultimately five years, you have to have all your permits but we did leave it open because some of these larger projects do take longer than that to permit everything.

Shackelford: Thank you very much. I appreciate your input.

Clark: I believe that this Ordinance is a great advance to our code book. I don't necessarily think that it's the greatest in the world but I hope that, if we implement it and we find another flaw, we will continue to develop it. I

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think Staff and I know that Tim has put a lot of time in on this and it shows. I'm in favor of it. I'm comfortable making a recommendation that we forward it if everybody else is.

Ostner: Sounds like a motion.

MOTION:

Clark: I move that we forward this to the City Council with our recommendation of approval.

Ostner: I have a motion. Do I have a second?

Myers: Second.

Ostner: Second by Commissioner Myers. It was a motion by Commissioner Clark. Is there further discussion? Could you call the roll, Renee?

Roll Call: Upon the completion of roll call the motion to forward ADM 04-1326 was approved by a vote of 8-0-0.

Thomas: The motion carries.

Ostner: Thank you. Are there any further announcements? We stand adjourned.



PC Meeting of May 09, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: May 03, 2005

ADM 05-1504: (PZD Revisions)

Background: The Planning Commission on January 10, 2005 voted unanimously to forward the proposed amendments to the Planned Zoning District ordinance prepared by staff to the City Council with a recommendation for approval. The next phase of review consisted of a review by the Ordinance Review Committee, which is made up of four members of the City Council. Upon their first review, there were significant concerns with the conceptual nature of the language of the revisions. Staff was directed to revisit some specifics and report back to the Ordinance Review Committee. Last Wednesday, April 27, the Ordinance Review Committee again reviewed the proposal, with revisions. There were some minor revisions to be made, along with a couple of more significant revisions, one of which would directly affect the Planning Commission in its review of Master Development Plan Planned Zoning Districts.

Proposal: The Ordinance Review Committee has forwarded the ordinance to the full City Council for review and adoption. Prior to their consideration, however, staff was directed to prepare a memorandum describing the more recent change to the ordinance in order to have the Planning Commission respond.

The proposed amendment, which will be added to the ordinance for City Council review, enables an applicant to submit a Master Development Plan PZD in accordance with the criteria established by the new ordinance directly to the Planning Division for review as is currently done. Upon review by the Zoning Review Team (also a process currently in action), staff would make a recommendation directly to the City Council for approval or denial of the Planned Zoning District Master Development Plan, with its Statement of Commitments, Development/Design Standards, conceptual site plan, zoning criteria, etc. If passed by the City Council, an ordinance rezoning the property would be recorded. Subsequent development plans (subdivisions or large scale developments), based on the Planned Zoning District approved, would be reviewed and approved by the Planning Commission, as long as the criteria established in the land use decision by the City Council with the Planned Zoning District approval were met. The primary difference in this process and the one by which we review Planned Zoning Districts now is that it reduces the time of the development review process, potentially offering incentive to developers to bring forward more innovative designs without expending exorbitant amounts of money in design, engineering and time through the current development review process. Those applicants desiring to vest development rights with a large scale development or subdivision

approval simultaneously would still be afforded the right to come through the typical process that we follow now, with full development plans. There would still be a public review and comment process, through the City Council review of the proposal. The Planning Commission's role would be decreased in this initial phase of review and recommendation, though it would still be involved with the development review of the subsequent projects, which is ultimately the Planning Commission's charge as an appointed body.

Discussion: Staff welcomes comments from the Planning Commissioners regarding the change in this review process, which is staff's current direction from the Ordinance Review Committee. Language will be formulated to incorporate this process into the ordinance prior to the full City Council review. Minutes from this meeting will be forwarded to the City Council as part of that review of the revised Planned Zoning District ordinance.

Following are the written comments received by Planning Commissioners to include in this packet:

Alan Ostner:

Memo

To: Fayetteville City Council and Mayor Coody
From: Alan Ostner, Chair, Planning Commission
Re: Currently- Proposed PZD Ordinance
Date: Thurs. May 12th, 2005

Dear Council Persons,

The currently- proposed PZD Ordinance offers something I rarely see in municipal government: a real incentive for developers. This option would let developers write a 'custom zone' for their property along with its 'statement of intent' and for you all to consider it directly from Planning Staff's report with no discussion by the Planning Commission. Not having to wait through the 40-day Planning Commission schedule is a big change for developers and their rezoning requests. The savings in time is considerable, and the costs of needless delays in development can be devastating to a development project. I have a great deal of confidence in the Planning Staff and I know they will research every 'custom zone PZD' issue carefully in their presentations to you. I also suspect this change might get some hesitant developers to come on down to our area and try to do some business here whereas they might not want to right now. We need to attract quality developers to Fayetteville.

But I believe this fast- track approach to rezonings might have a price for the city as well. Even though I would be glad to get out of the rezoning business as a Planning Commissioner, I do believe our current system offers valuable input to the decisions you all make concerning rezonings. Part of the reason the Planning Commission has such lively conversations on rezonings comes directly from the fact that we are not elected, but are appointed. First, we are much more protected from the political process of having to answer daily to the voters as you all must. Second, since we are not elected, Commissioners are instructed to not discuss specific development items with anyone other than Staff until we are formally convened as a body. These one- on one conversations with either applicants, or concerned neighbors, or even other Planning Commissioners could easily result in a bias toward or against an issue, which we attempt to avoid. It is inappropriate and unethical for a commissioner to talk to anyone about these development items before the formal hearing, and I believe all Planning Commissioners hold this rule in high regard. When we hear items at Planning Commission meetings, we have a fairly 'clean slate' of opinion going into the meeting, having only talked about the item at the Agenda Session 4 days before. We are very similar to a jury, with Jeremy our 'judge.' And everyone knows you can't tamper with a jury. I believe our discussions enable you all to make better-informed decisions, much like the Subdivision Committee's discussions enable the Planning Commission to make better decisions on development items. I think we serve as a front- line for the development struggles: someone is almost always unhappy with a rezoning request and I think we often begin the valuable path toward a solution.

It seems as if a compromise PZD Ordinance might be another option. The developer writes the 'custom zone' with its statement of intents for his or her piece of property. Do not hire ANY

engineering for the project. Work your way through the Planning Department as if you were doing a straight rezone, like from R-A to RSF-4. This eliminates all the risky engineering and the months of engineering effort that was having to be done too early in the unpredictable political process. But this version of the 'custom rezoning request' still gets the full Planning Commission scrutiny and discussions, and staff comments. After the Staff's and Planning Commission's look, present the request to the City Council for your 3 readings. Walk away with vested development rights just like a straight rezone. Head to your engineer and get to work, and start the development process at Planning with a Large Scale Development or Preliminary Plat request, whichever the case may be.

Good luck with your decision. I'm sure you will create a well- rounded Ordinance that will benefit our town and its future.

Sincerely,

Alan Ostner

Nancy Allen:

Regarding the PZD ordinance, one would think that the Council would benefit from the discussion at PC level, and that the discussion generated would be especially beneficial to them.

Candy Clark:

Jeremy --

I am sorry to have taken so long responding to the proposed change in the PZD ordinance. Though my email is tardy, I have been giving this proposal much thought since our discussion in Agenda over two weeks ago. Initially, I was uncomfortable with bypassing the Planning Commission and allowing developers access directly to the Council via Planned Zoning District Master Development Plans. I can honestly say I have not changed my mind. I warn you, my thought process is not overly complicated and I can't really state statute or ordinance specifics but it is my humble opinion on the subject!

The concept of bypassing the Planning Commission with land use decisions is most troublesome. As you know, land use questions involve many significant issues that take time and effort to plow through. The Planning Commission is very restricted in what we can look at with regard to interpretation of the guidelines and rules governing land use in the City. Our role is to make certain all things are done to code or ordinance with the council having final say after considering other issues involved with the policy and or politics of development. Taking those decisions directly to the Council could, it seems to me, actually bog down the process and take even more time than routing things through the Planning Commission. If nothing else, council members will be asked to look at an incredible volume of information that has normally already been addressed through the Planning Commission and Planning Staff. On a more practical level, initially bypassing the Planning Commission could

lead to much more confusion and uncertainty. The Council is not restricted to staying within all the guidelines Planning Commission uses to make land use determinations. They can look at a host of other issues related to development that Planning Commission can not. Having the PZD go to the Council then BACK to PC could get things really muddled. I can see much more confusion interjected into this process than currently exists. I know the whole revision of the PZD ordinance is intended to help developers come forward with innovative development ideas without spending lots of money with engineering, elevations, etc. I just can't see this revision accomplishing that goal. Council members make policy. Planning Commission makes land use decision based on those policies. Something just seems out of step to bypass the Commission in land use decisions and basically reverse the system. I know I am relatively new to the Planning Commission and that I still have much to learn. But I am still struck with the belief that there has to be another way to help developers show what they intend to do with a PZD in a simple, streamlined and inexpensive manner. Sometimes I think we let technology get in our way and we keep adding things on top of other things we want to see. The result is a process that is time consuming and expensive for developers. There has to be another way to allow them to show PC and Council what they want to build and how it will look conceptually. There are definite things we can ask them to commit to within that initial process before anything overly expensive or technical has been done. Letting them just bypass the PC just does not seem to be the answer.

I do thank the Council for allowing us input into this decision and discussion about the PZD ordinance. I am hopeful we can work together to find a better way.

Candy

Jill Anthes:

- 1) The current review process is a fast process already compared to many other city and county jurisdictions, without shortening it further.
- 2) Adequate time is needed for staff to prepare comprehensive reports.
- 3) The applicant, staff, and the Planning Commission can offer options for revisions through the process, rather than voting a project up or down without trying to find a middle ground.
- 4) There will be a learning curve for the Planning Commission with each one of these projects -- to understand the Master Plan concepts, commitments, standards, etc. that the City Council approved -- which may lead to more time in the review of the detailed plans at the time of development.
- 5) The proposed ordinance does not promote interaction between the applicant and the Planning Commission, which is particularly important when tied to a development plan that will be approved or denied by the Planning Commission

at a later date.

6) If the Planning Commission's role is to review and recommend land use decisions to the City Council, it is especially important (rather than less so) in "special cases" like the PZD.

7) The circumventing of the Planning Commission erodes the credibility of the Planning Commission, which may carry into all other decisions and interactions with developers.

8) Isn't the City Council supposed to receive the advice of the Planning Commission prior to deciding these matters? Are there legal findings to this effect?

There is an issue even bigger than these, however. The City of Fayetteville currently has no instrument to allow (more the less encourage) mixed-use development, other than the PZD. Wasn't the PZD ordinance written to encourage creative development that would not otherwise be allowed under current zoning regulations? If that's the case, the revised ordinance actually works in contradiction to this goal.

Let's say that a developer has 100 acres and submits a "master development plan" with a conceptual zoning diagram for 60 acres of RSF-4, 20 acres of RMF-24, 10 acres of R-O, and 10 acres of C-1. Don't be misled -- this is NOT mixed-use development. It is four parcels of single-use zoning that will develop only marginally different under one developer as it would if these were four separate tracts with separate owners/developers. One could even make the case that applying zoning in this way, without a full development plan, could result in what would otherwise be classified as spot zoning.

Seeing a development plan along with the zoning request allows the Planning Commission and City Council to approve a zoning that incorporates a true mix of uses. If this is burdensome for developers, then we should come up with another way to facilitate mixed-use development in our city.

Jill Anthes

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ADM 05-1504: Administrative Item: PZD Ordinance Revision

Ostner: The last item on our agenda is ADM 05-1404 entitled PZD revisions.

Pate: We spoke about this at length at agenda session so I won't go too much in depth. You are entirely welcome to email your comments to me if you would like to not discuss them too much tonight. Obviously, City Council will be looking for minutes and any comments that you have so I would recommend that you get those to us so we can forward those this Friday to City Council. Background for the public listening, the Planning Commission voted unanimously to forward the PZD revisions to the City Council in January, 2005. The Ordinance Review Committee reviewed that, had suggestions for changes, staff made those changes and went back to the Ordinance Review Committee about a week and a half ago. There were some revisions and one of the major revisions was to have the master development plans come through without going to the Planning Commission. That is obviously, a significant change for this type of request. It is a rezoning request that is tied to at least a conceptual master development plan and would be a different scenario than what you experience now. Currently anything to do with planning that goes to City Council is made by a recommendation from the Planning Commission as well as Planning Staff. The Ordinance Review Committee is looking for feedback from you on that process. I've outlined as much as I could here. I have also included the current ordinance, we have yet to add this portion into it but we will by Friday for the agenda request to City Council. Essentially, what we are looking for is feedback on how you feel about that process and whether you do that now verbally or in writing is fine by us. We will forward those comments to the City Council and they are very interested to hear what you have. One of the big things is it does allow for an incentive for a developer to come through this process with a master development plan, PZD because it does forego some of the time associated with processing a project. Instead of 40 days to get to the Planning Commission plus 21 days to get to the City Council plus two readings, which is another two weeks which can be quite a lengthy time. It would essentially come in, we would review it with the Zoning Review Team and it would go straight to City Council with a recommendation. What the Planning Commission would be faced with then is looking at PZDs that were approved by the Council as land use decisions much like the zoning districts that you see now. As Mr. Ostner noted at agenda session, it would be a custom zoning created for that piece of property and staff would make a recommendation to determine if it met the intent, spirit and all of the commitment and development standards that were approved by the City Council. That would be the biggest change that you would not see the conceptual part of it, you would just make a recommendation on the development. With that, I would be glad to take any comments for the record or you can email me if you would like.

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Ostner: Do Commissioners have comments that they would like to share on the PZD proposal? At agenda session when this was presented to us, I have to say from a development stand point the incentive to have any kind of fast track in this slow wheel is incredible. I think that is a real benefit and I think that will get the attention of a lot of people and I think that is important to not slow things down when they don't have to be slowed down. I'm also mixed because I do think we offer in sight. I understand that we do not grant rezoning requests but I believe our discussion and what happens in the audience with staff and neighbors is beneficial to the City Council. However, I am willing to be cut out of the custom rezoning business if the Council thinks it was a good idea. If anyone else has anything to say about this issue you can say them now or email to Jeremy.

Myres: I plan to email my comments.

Ostner: If there is no further discussion, this is an administrative item which does not require a motion.

Meeting adjourned: 9:38 p.m.

From: "Hank Broyles" <hbroyles@bhallc.com>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 5/23/05 9:37AM
Subject: Custom Zone

Good morning,

I would like to provide testimony in favor of the "Custom Zone". I think any step that skips the PC is wonderful.

We made numerous improvements to Aspen Ridge prior to our meeting with the planning commission. But they felt like they had to make changes to our proposal.

They think they have to make changes to every proposal they see.

I believe the PC has written guidelines to follow that instruct the PC to determine if the developer is complying with city ordinances. Not picking colors of buildings or how the buildings should sit on the site.

Many projects don't need their changes, but the PC now believes they are developers and know what is best for the City, so they make all kinds of changes, which I do not believe is within the scope of their authority.

As a developer, I am frustrated by these actions and I am willing to take the chance that I will make PC members mad at me by saying so. But, so what.

I also feel they should serve one term and leave.

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

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PZD Ordinance Amendment
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7-Jun-05
City Council Meeting Date

Tim Conklin
Submitted By

Planning and Development
Division

Operations
Department

Action Required:

PZD ORDINANCE AMENDMENT: Submitted by Tim Conklin for Ordinance amendment to add an additional Planned Zoning District (PZD) option to allow applications to be approved as a Master Development Plan without submittal and approval of a large scale development or preliminary plat.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

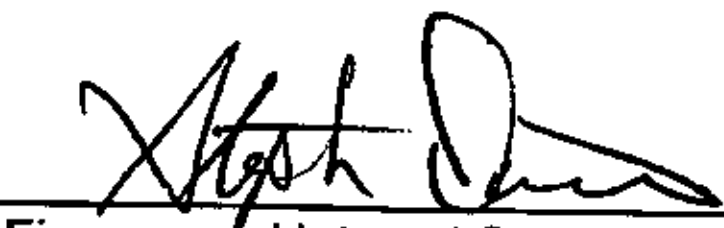

Department Director 5-20-05
Date

Previous Ordinance or Resolution # n/a

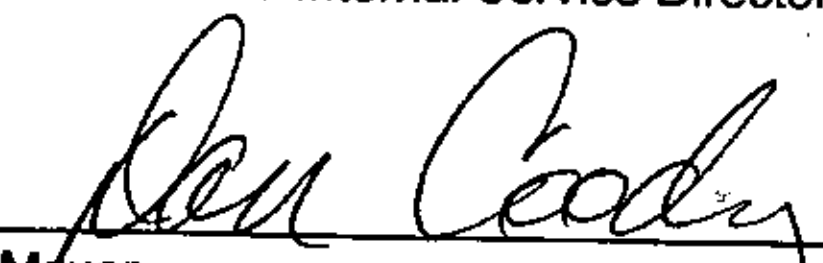
Original Contract Date: n/a


City Attorney 5-25-05
Date

Original Contract Number: n/a


Finance and Internal Service Director 5-25-05
Date

Received in City Clerk's Office



Mayor 5/25/05
Date

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: May 17, 2005

Subject: Resolution Setting The Minimum Bid Price at \$872,000 To Sell
Approximately 35 Acres of The Westside Wastewater Treatment Plant
Site.

RECOMMENDATION

Planning Staff recommends setting the minimum bid price for the sale of 35 acres of the westside wastewater treatment plant site at approximately \$25,000 per acre for a total minimum bid price of \$872,000.

BACKGROUND

Last September, the Fayetteville City Council requested staff bring forward a proposal to sell the north 35 acres of the westside wastewater treatment plant 300 acre site. On October 5, 2004, The City Council passed Resolution No. 159-04 authorizing the City to sell this property and rezone this property to RSF-4.

Three appraisals have been completed on this property as shown below:

Parrish Appraisals Inc. (1-3-05)	\$29,000/acre	\$1,011,000
The Real Estate Consultants (1-18-05)	\$15,056/acre	\$525,000
Dowell Appraisal and Real Estate Services (4-6-05)	\$25,000/acre	\$872,000

The April 6, 2005 appraisal was ordered due to the disparity in the first two appraisals.

The sale of this property will allow for potential improvements to be made to Persimmon Street as a requirement of future development approval. The proceeds from the sale will remain with wastewater treatment plant project.

Once the City Council sets the minimum bid price, the City will begin the process of advertising the property and place the required public notices on site and in the newspapers.

BUDGET IMPACT

The potential sale will allow for the construction of Persimmon Street as part of development and provide additional funding of the wastewater treatment plant project.

(E) Upon an affirmative vote of the City Council, the city shall solicit sealed bids, at a minimum price set by the City Council, from all interested parties. Bids must equal or exceed the minimum price set by the City Council and the appraised value of the property.

(F) The city shall sell the subject real property to the highest qualified bidder. In the event none of the bids from a qualified bidder equals the minimum price set by the City Council, the city shall reject all bids, and may reopen the bidding, upon City Council approval.

(G) Upon receipt of an acceptable bid, and authorization by a separate resolution of the City Council, the conveyance of the real property shall be performed by the mayor and city clerk.

RESOLUTION NO. _____

A RESOLUTION SETTING THE MINIMUM BID PRICE FOR THE SALE OF 35 ACRES OF THE WESTSIDE WASTEWATER TREATMENT PLANT SITE, WHICH IS SOUTH OF PERSIMMON STREET AND WEST OF BROYLES ROAD, AT APPROXIMATELY \$25,000 PER ACRE FOR TOTAL A MINIMUM BID PRICE OF \$872,000.

WHEREAS, on October 5, 2004, The City Council passed Resolution No. 159-04 authorizing the City to sell this property and rezone this property to RSF-4.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby sets the minimum bid at \$872,000.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes staff to solicit sealed bids, at the minimum price set by the City Council, from all interested parties.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes, that bids must equal or exceed the minimum price set by this Resolution and the appraised value of the property.

PASSED and APPROVED this _____ day of June, 2005.

APPROVED:

By:

DAN COODY, MAYOR

ATTEST:

By:

SONDRA SMITH, CITY CLERK

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Through: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director *TC*

Date: May 17, 2005

Subject: Resolution Setting The Minimum Bid Price at \$872,000 To Sell
Approximately 35 Acres of The Westside Wastewater Treatment Plant
Site.

RECOMMENDATION

Planning Staff recommends setting the minimum bid price for the sale of 35 acres of the westside wastewater treatment plant site at approximately \$25,000 per acre for a total minimum bid price of \$872,000.

BACKGROUND

Last September, the Fayetteville City Council requested staff bring forward a proposal to sell the north 35 acres of the westside wastewater treatment plant 300 acre site. On October 5, 2004, The City Council passed Resolution No. 159-04 authorizing the City to sell this property and rezone this property to RSF-4.

Three appraisals have been completed on this property as shown below:

Parrish Appraisals Inc. (1-3-05)	\$29,000/acre	\$1,011,000
The Real Estate Consultants (1-18-05)	\$15,056/acre	\$525,000
Dowell Appraisal and Real Estate Services (4-6-05)	\$25,000/acre	\$872,000

The April 6, 2005 appraisal was ordered due to the disparity in the first two appraisals.

The sale of this property will allow for potential improvements to be made to Persimmon Street as a requirement of future development approval. The proceeds from the sale will remain with wastewater treatment plant project.

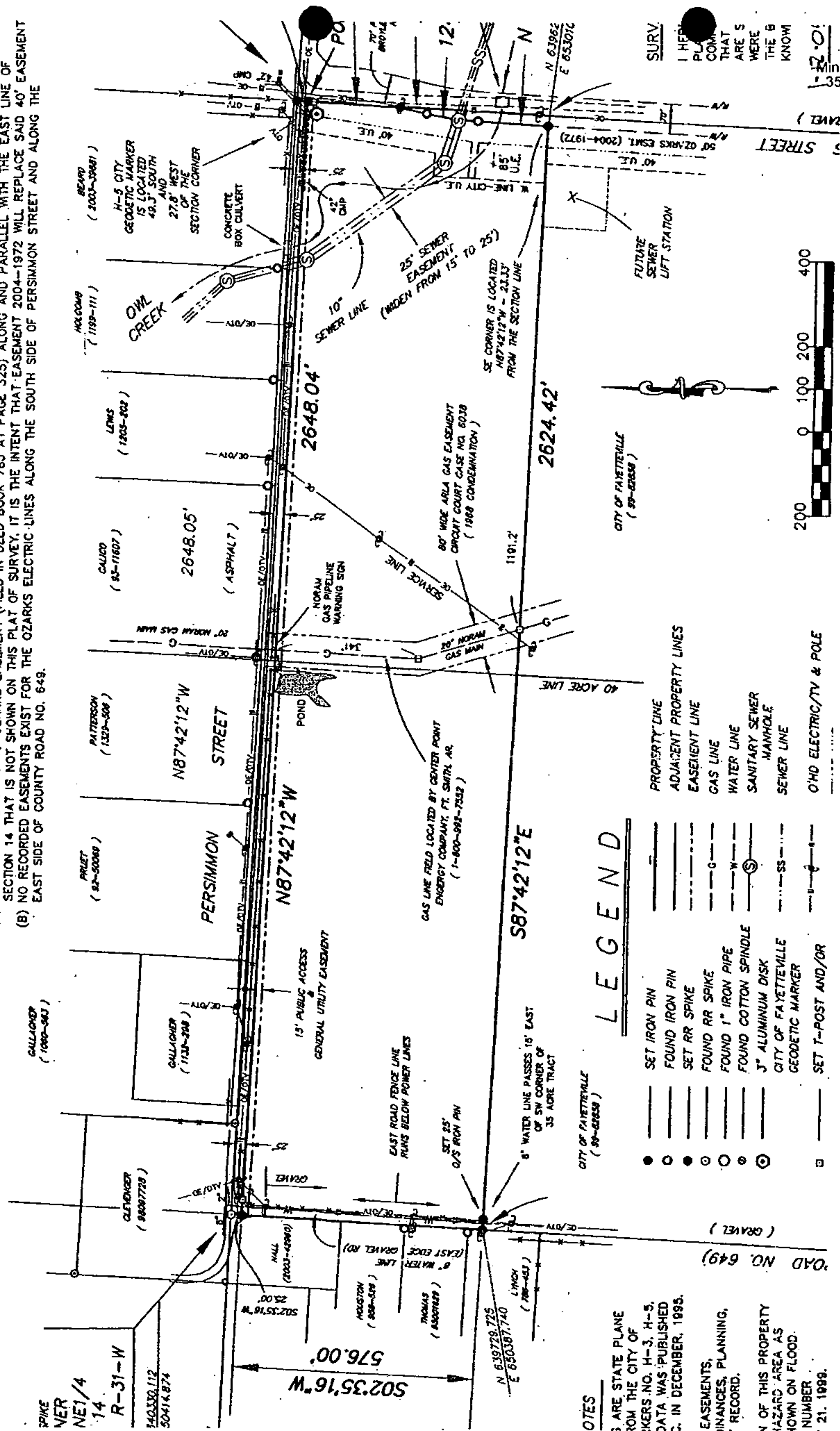
Once the City Council sets the minimum bid price, the City will begin the process of advertising the property and place public notices on site and in the newspapers.

BUDGET IMPACT

The potential sale will allow for the construction of Persimmon Street as part of development and provide additional funding of the wastewater treatment plant project.

NOTES:

- (A) THERE IS AN EXISTING 40' OZARKS EASEMENT (FILED IN DEED BOOK 785 AT PAGE 325) ALONG AND PARALLEL WITH THE EAST LINE OF SECTION 14 THAT IS NOT SHOWN ON THIS PLAT OF SURVEY. IT IS THE INTENT THAT EASEMENT 2004-1972 WILL REPLACE SAID 40' EASEMENT
- (B) NO RECORDED EASEMENTS EXIST FOR THE OZARKS ELECTRIC LINES ALONG THE SOUTH SIDE OF PERSIMMON STREET AND ALONG THE EAST SIDE OF COUNTY ROAD NO. 649.



RESOLUTION NO. 159-04

MICROFILMED

**A RESOLUTION OF AUTHORIZATION TO SELL 35 ACRES
OF CITY LAND SOUTH OF PERSIMMON STREET AND
WEST OF BROYLES ROAD**

WHEREAS, pursuant to §34.27 of the Code of Fayetteville, the City Council shall issue notice of its authorization to sell city owned real estate by issuance of a Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby gives notice and authorization to offer for sale 35 acres as described in Exhibit A, south of Persimmon Street and west of Broyles Road and north of the new, westside wastewater plant.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that the property should be rezoned as RSF-4, Residential Single Family, 4 units per acre, prior to its sale.

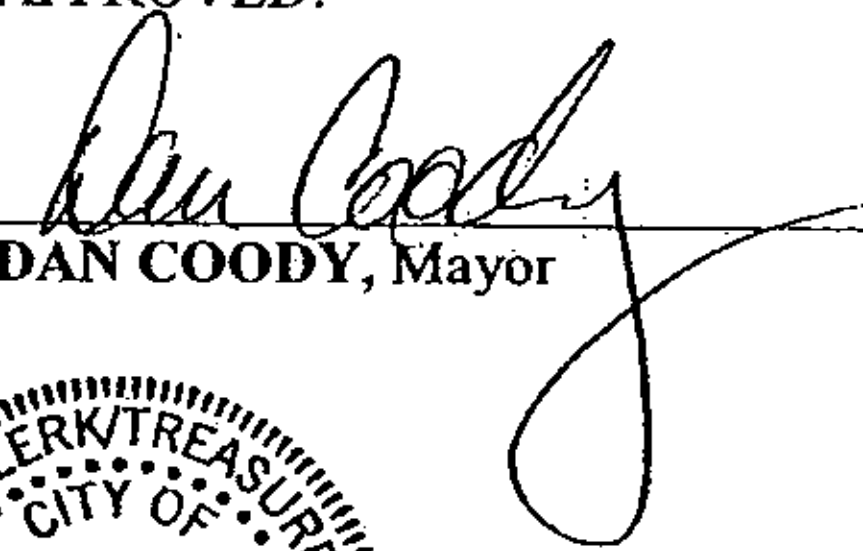
Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this 35 acre northernmost portion of the 300 acres purchased for the location of the western wastewater facility no longer serves a municipal purpose in that it is not needed (except for street and utility easement purposes) for the development and buffering of the new wastewater plant.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the administration to hire two independent appraisers to conduct appraisals of this 35 acre parcel.

PASSED and APPROVED this 5th day of October, 2004.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



NOTICE OF INTENT TO SELL

North 35 acres of West Wastewater Treatment Property
(Parcel # 765-16201-010)

The City of Fayetteville is seeking City Council approval to offer for sale the north 35 acres of the West Wastewater Treatment Property. Resolution seeking this approval is proposed for the October 5, 2004 City Council Agenda. Property is currently zoned R-A, Residential Agricultural and will not be rezoned prior to sale.

Advertise Dates:

~~August 25, 2004~~
August 29, 2004
September 1, 2004
September 5, 2004

~~Send Certified Mail: Wednesday, August 25, 2004~~
~~Signs Placed: Friday, August 27, 2004~~

Resolution before City Council on October 5, 2004 (agenda request due 9/17)

Survey & appraisals ordered

Lot Split application submitted: October 14, 2004 (administrative approval obtained October 27, 2004)

Resolution before City Council to set minimum price to be accepted by bid November 16, 2004 (agenda request due 10/29)

Advertise for Sealed Bids:

November 21, 2004
November 24, 2004
November 28, 2004
December 1, 2004

Bid Opening:

Date to be set by Purchasing

Resolution to present highest qualified bid for acceptance:

January 4, 2005 (agenda request due 12/17)

Acceptance of offer by City Council, conveyance of property to be arranged thru local title company via Warranty Deed signed by the Mayor and the City Clerk.

N

54th Avenue

575.78

N02°35'16"E

NW corner
NW-NE-14-16-31

Persimmon Street

2648.05

S87°42'12"E

NW-NE-14-16-31

City Property
North 35.00 acres
(For Appraisal Purposes Only)

NE corner
NW-NE-14-16-31

S02°37'00"W

575.78

Broyles Road

S87°42'12"W

2647.76

Title: North 35.00 Acres of West Wastewater Treatment Facilities

Date: 08-18-2004

Scale: 1 inch = 300 feet

File: NW/WW/TP35ac.des

Tract 1: 35.000 Acres: 1524589 Sq Feet: Closure = s08.5643e 0.00 Feet: Precision > 1/999999: Perimeter = 6447 Feet

001=N02.3516E 575.78

003=S02.3700W 575.78

002=S87.4212E 2648.05

004=N87.4212W 2647.76 ?

Property Description:

A part of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Fourteen (14) in Township Sixteen (16) North of Range Thirty-one (31) West, Washington County, Arkansas, being the North 575.78 feet of the NW¼ of the NE¼ of said Section 14, containing therein 35.00 acres, more or less, subject to rights of way along Persimmon Street, Broyles Road and 54th Avenue and easements of record, including, but not limited to electricity, storm water drainage, sewer and water. Additionally, a 20" high pressure natural gas main of NORAM crosses this property for which no easement of record was found in the office of the Circuit Clerk of Washington County nor in the offices of Arkla Gas Company. Adjoining properties with recorded NORAM gas easements specify a 60 foot wide easement, being 20 feet on the West side and 40 feet on the East side of said line as installed.

THE REAL ESTATE CONSULTANTS

C. 10
Minimum Bid Pricing of
35 Acres of City Land
Page 10 of 16

118 N. East Ave.
P.O. Box 726
Fayetteville, AR 72702

• REALTORS • APPRAISERS • CONSULTANTS •

Phone (479) 442-0762

January 18, 2005

Mr. Edward D. Connell, City Land Agent
City of Fayetteville
113 W. Mountain
Fayetteville, Ar 72701

RE: Appraisal Services

City of Fayetteville
P.O. # 04-3755
34.87 Acres
Persimmon St.
Fayetteville, Ar 72704

Dear Mr. Connell:

In compliance with your request and to determine the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The subject property was inspected by the appraiser on *January 11, 2005*. The intended use is to determine the feasibility of a sale of the aforementioned property by the City of Fayetteville. I further certify that I have no interest present or contemplated in the property under appraisal, and that my fee was not contingent upon the value estimate reported.

The opinions set forth in this letter are stated as of *January 18, 2005*.

The following narrative appraisal report contains the data gathered in my investigation and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This report is considered a *complete summary appraisal*.

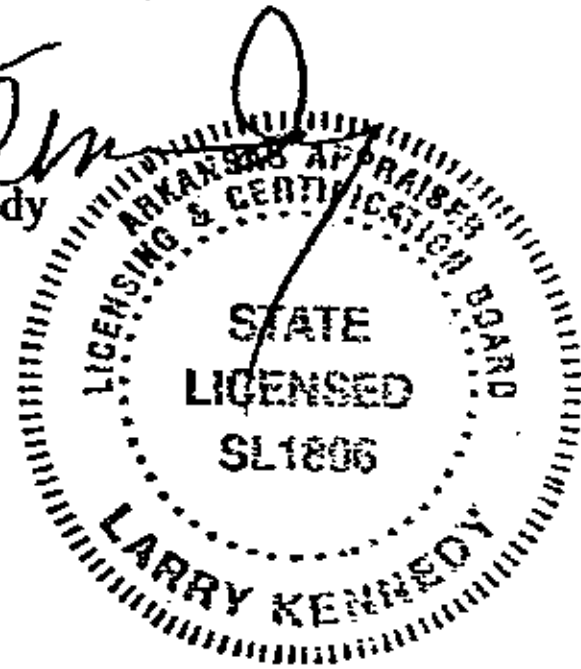
This appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data approach to this appraisal. The Cost and Income Approaches are not considered applicable in this appraisal.

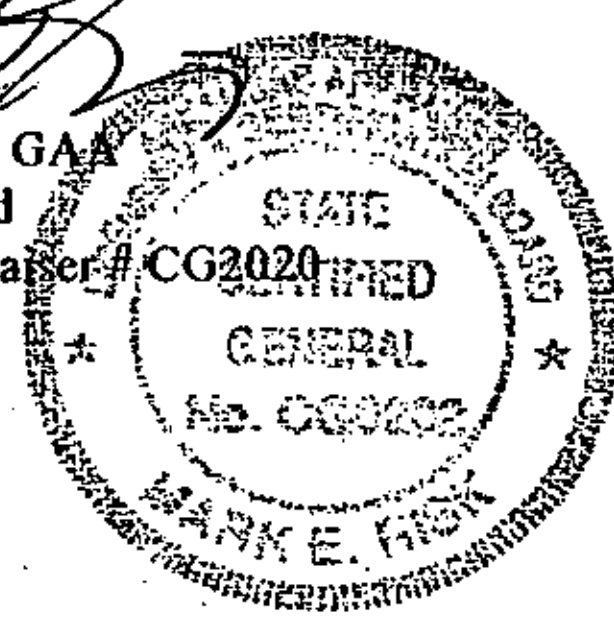
This report has been prepared for the exclusive benefit of the *City of Fayetteville, the intended user*. This report can only be relied upon by the client/intended user.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *January 11, 2005*, and subject to the assumptions and limiting conditions set forth in the body of this report, is as follows:

FIVE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS
(\$525,000)

Respectfully submitted,


Larry D. Kennedy
State License
SL 1806



Mark A. Risk GAA
State Certified
General Appraiser # CG2020


SUMMARY OF SALIENT FACTS & CONCLUSIONS

Property Type:	Development Acreage/Pasture land (34.87 Acres)	
Date of the Appraisal:	Opinions set forth in this appraisal are stated as of <i>January 18, 2005</i> . The subject property was inspected on <i>January 11, 2005</i> . The effective date of the appraisal is the date of inspection.	
Property Interest Appraised:	Fee Simple	
Location:	South side of Persimmon St between Broyles St and 54 th Street in West Fayetteville, Washington County, Ar	
Zoning:	Current zoning A-R (Agricultural-Residential) Proposed and for this report the zoning will be RSF-4 (Residential Single Family-4 Units Per Acre).	
Site:	34.87 Acres per survey provided by client.	
Public Utilities:	All utilities available at site.	
Improvements:	None of Contributory Value.	
Flood Data:	Zone AE, X Map # 05143C0091D(Partially in Flood Zone along Owl Creek) Dated-07/21/99	
Highest and Best Use:	Residential Development	
Value Indications:	Market Data Approach	\$525,000
	Income Approach	N/A
	Replacement Cost	N/A
Final Estimate of Market Value:		\$525,000

Note: *This property is owned by the City of Fayetteville. This is a portion of a larger tract that is referenced under Assessor's Parcel # 765-16201-010.*

This appraisal report has been prepared for the exclusive benefit of the City of Fayetteville. Any party who relies upon any information in this report, without the preparer's written permission does so at their own risk.

Dowell Appraisal and Real Estate Services

2585 North College Ave.
P.O. Box 1512, Fayetteville, AR 72703

(479) 521-4348
FAX (479) 521-4372

April 6, 2005

Mr. Ed Connell Or Jill Goddard
City of Fayetteville
113 W. Mountain
Fayetteville, AR

RE: A Summary Appraisal of
34.87 Acres
Broyles & Persimmon Streets
Fayetteville, Arkansas

Dear Mr. Connell or Ms. Goddard:

Upon your request I have inspected the subject property and researched the market for the purposed of an appraisal. Please find my report attached.

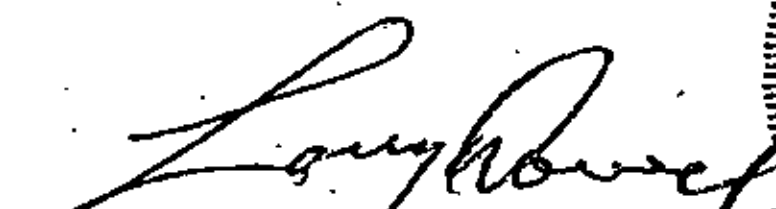
The subject property consisting of 34.87 acres, more or less, is located in extreme west edge of Fayetteville and south of Wedington Drive (Highway 16 West). The land is vacant and open and fronts on Persimmon Street on its north boundary, Broyles Street on the east and 54th Street on the west boundary.

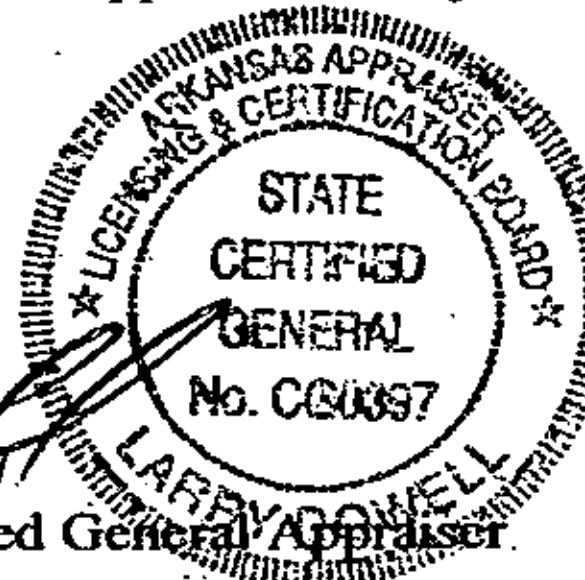
With reliance on the Market Approach, it is my opinion the property had an estimated market value as of April 4, 2005 as follows:

Estimated Market Value of Land "as is" 34.87 Acres - \$25,000 per acre or \$871,750
Round \$872,000

Normal marketing time for this property is estimated at approximately three to six months. The fee for this appraisal is in no manner contingent upon the amount of the appraisal value. The appraiser has no present or contemplated interest in the property. This appraisal is subject to the assumptions and limiting conditions contained in this report.

Sincerely,


Larry Dowell, CG0397
Arkansas State Certified General Appraiser



SUMMARY OF IMPORTANT FACTS

CLIENT:	City of Fayetteville	
Property Ownership:	City of Fayetteville	
Date of Value:	April 4, 2005	
Property Rights:	Fee simple	
Purpose of Appraisal:	Market Value Estimate for Marketing Purposes	
Highest and Best Use:	Single Family Residential Development	
Site:	Total 34.87 Acres	
Improvements:	None.	
Estimated Value by Market Approach	"As is" Land (\$25,000/Acre	\$ 872,000
Estimated Final Value		\$ 872,000



APPRAISAL OF REAL PROPERTY

LOCATED AT:

54th & Persimmon Street
34.87 Acres, Pt. 14-16-31
Fayetteville, AR 72704

FOR:

City Of Fayetteville
Fayetteville, AR 72701

AS OF:

January 3, 2005

BY:

Corby D. Wright
Parrish Appraisals, Inc.
72 W. Sunbridge
Fayetteville, AR 72703

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

File No. 900643

[Y2K]

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 10
Minimum Bid Pricing of
35 Acres of City Land
Page 16 of 16

7-Jun-05

City Council Meeting Date

Tim Conklin
Submitted By

Planning and Development
Division

Operations
Department

Action Required:

RESOLUTION: (WESTSIDE WASTEWATER TREATMENT PLANT SITE, 476): Submitted by Tim Conklin for property located south of Persimmon Street and west of Broyles Road. The property contains approximately 35.00 acres. The request is to set the minimum bid price at approximately \$25,000 per acre for total minimum bid price of \$872,000.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
4480-0948-4881-02		WWTP LAND SALE - 35 ACRES
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
04046	\$ -	WASTEWATER IMP. CONSTRUCTION
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

5-25-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

5-25-05
Date


Finance and Internal Service Director

5-25-05
Date

Received in City Clerk's Office


Mayor

5/25/05
Date

Received in Mayor's Office

Comments:

Agenda Session
5/31/05

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 7, 2005**

A meeting of the Fayetteville City Council will be held on June 7, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

1. **Approval of the Minutes:** Approval of the May 17, 2005 City Council meeting minutes.
2. **Water and Sewer Division Vehicle Purchase:** A resolution approving the purchase of one (1) cab and chassis with dump body for the Water and Sewer Division from Landers Ford in the amount of \$34,590.00.
3. **Farmington Waterline Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$170,005.00 for the purchase of easements required for the Farmington Waterline Project; and approving a 10% project contingency in the amount of \$17,001.00.
4. **Wastewater System Improvement Projects Lump Sum Allocation:** A resolution approving a lump sum allocation in the amount of \$569,845.00 for the purchase of easements required for Wastewater System Improvements Projects (WSIP) WL-1, WL-2, and WL-3; and approving a 10% project contingency in the amount of \$56,985.00.
5. **Hamestring Pumping Station Offer and Acceptance Contract:** A resolution approving an offer and acceptance contract between the City of Fayetteville and the Clydene Scharlau Trust for the purchase of real property and easements required for the new Hamestring Pumping Station in the amount of \$27,000.00.

6. **RJN Group, Inc., Engineering Services Contract:** A resolution awarding an Engineering Services Contract in the amount of \$420,216.00 with RJN Group, Inc. for sanitary sewer evaluation study and design for Illinois River Basin 15, the areas tributary to the Hamestring Creek Lift Station; and approving a 5% project contingency in the amount of \$21,000.00.

B. UNFINISHED BUSINESS:

1. **Amend § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** An ordinance to amend § 97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) Permits and (C) Fees. *This ordinance was left on the first reading at the May 17, 2005 City Council Meeting.*
2. **RZN 05-1448 (Staggs):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1448 for property located at 2824 S. School Avenue. The property is zoned RSF-4, Single Family 4 Units/Acres and contains approximately 0.68 acres. The request is to rezone the subject property to C-2, Commercial Thoroughfare. *This ordinance was left on the second reading at the May 17, 2005 City Council Meeting.*

C. NEW BUSINESS:

1. **ANX 05-1451 (Lane):** An ordinance annexing that property described in Annexation Petition ANX 05-1451 for property located at the end of County Ridge Road, North of Hwy 16 East and West of Deerfield Way containing approximately 24.19 acres.
2. **RZN 05-1452 (Lane):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1452 for approximately 24.19 acres located at the end of County Ridge Road, North of 16 East and West of Deerfield Way from R-A, Residential-Agricultural to RSF-4, Residential Single Family – 4 units per acre.
3. **ANX 05-1470 (Phillips/Baggett):** An ordinance annexing that property described in Annexation Petition ANX 05-1470 for property located at 5150 and 5270 E. Huntsville Road containing approximately 29.59 acres.
4. **RZN 05-1471 (Phillips/Baggett):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1471 for approximately 36.99 acres located at 5150 and 5270 East Huntsville Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4-units per acre.
5. **Planning Commission Appeal (Lane):** A request to appeal the Planning Commissions motion to deny the rezoning request rezoning approximately 6.68 acres of property located north of Huntsville Road (Hwy 16 East) and west of Deerfield Way Subdivision from C-1, Neighborhood Commercial, to RSF-4, Residential Single Family – 4 units per acre.
6. **Planning Commission Appeal (Wimberly):** A request to appeal the Planning Commission's motion to deny the rezoning request rezoning approximately 0.26 acres of property located at 155 E. Elm Street from RSF-4, Residential Single Family – 4 units per acre, to R-O, Residential Office.

7. **Adopt Chapter 176, Outdoor Lighting:** An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide for the regulation of outdoor lighting installations.

Consent

8. **Designating Land for Recreation Purposes:** A resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 South Duncan Avenue for recreation purposes; and transferring Lots 5 & 6 on South Gregg Avenue from the Street Fund to the General Fund and designating them for recreation purposes.

*Tim Conklin
Page 1 missing*

9. **PZD Ordinance Amendment:** An ordinance amending Sections 166.06 Planned Zoning Districts (PZD), and sections 161.25 (C), (D) and (E) Planned Zoning District, Title XV of The Unified Development Code, Fayetteville Code of Ordinances, to allow Master Development Plans to be submitted as an option without submitting a subdivision or large scale development and clarifying other requirements, conditional uses, and development standards planned zoning districts.

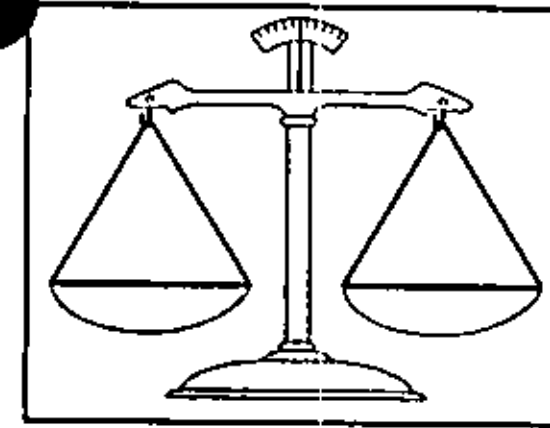
10. **Minimum Bid Pricing of 35 Acres of City Land:** A resolution setting the minimum bid price for the sale of 35 acres of the Westside Wastewater Treatment Plant Site, which is south of Persimmon Street and West of Broyles Road, at approximately \$25,000 per acre for total a minimum bid price of \$872,000.

11. INFORMATIONAL:

Council Tour: June 6, 2005 – 4:30 pm

— NONE

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **June 8, 2005**

RE: **Passed Resolutions and Ordinances from City Council
meeting of June 7, 2005**

1. **Water & Sewer Division Vehicle Purchase:** Resolution approving purchase of one cab and chassis w/dump body for Water & Sewer Division from Landers Ford in amount of \$34,590.00;
2. **Farmington Waterline Allocation:** Resolution approving lump sum allocation in amount of \$170,005.00 for purchase of easements required for Farmington Waterline Project; and approving 10% project contingency in amount of \$17,001.00;
3. **Wastewater System Improvement Project:** Resolution approving lump sum allocation in amount of \$569,845.00 for purchase of easements required for wastewater system improvements projects (WSIP) WL-1, WL-2, and WL-3; and 10% project contingency in amount of \$56,985.00;
4. **Hamestring Pumping Station Offer & Acceptance Contract:** Resolution approving Offer and Acceptance Contract between City of Fayetteville and Clydene Scharlau Trust for purchase of real property and easements required for new Hamestring Pumping Station in amount of \$27,000.00;

5. **RJN Group, Inc. Engineering Services Contract:** Resolution awarding Engineering Services Contract in amount of \$420,216.00 w/RJN Group, Inc. for sanitary sewer evaluation study and design for Illinois River Basis 15, the areas tributary to the Hamestring Creek lift station; and approving 5% project contingency in amount of \$21,000.00;
6. **Designating Land for Recreation Purposes:** Resolution designating 12.91 acres of municipal property located on Highway 45 East for recreation purposes, reserving up to 2 acres for a future fire station; designating 2.46 acres located at 1121 S. Duncan Avenue for Recreation purposes and transferring Lots 5 & 6 on S. Gregg Avenue from the Street Fund to the General Fund and Designating them for recreation purposes;
7. **Amend §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:** Ordinance amending §97.070 of the Code of Fayetteville, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson (B) (1) and (C) Fees;
8. **RZN 05-1448:** Ordinance rezoning property described in RZN 05-1448 for approximately .68 acres located at 2824 S. School Avenue from RSF-4, Single Family, 4 Units per acre to C-2, Thoroughfare Commercial;
9. **ANX 05-1451:** Ordinance annexing property described in ANX 05-1451 for property located at end of Country Ridge Road, north of Hwy. 16 East and west of Deerfield Way containing 24.19 acres;
10. **RZN 05-1452:** Ordinance rezoning that property described in RZN 05-1452 for approximately 24.19 acres located at end of Country Ridge Road, north of Hwy. 16 East and west of Deerfield Way from R-A, Residential Agricultural to RSF-4 Residential Single Family, Four Units Per Acre;
11. **ANX 05-1470:** An ordinance annexing that property described in ANX 05-1470 for property located at 5150 and 5270 E. Huntsville Road and containing approximately 29.59 acres;
12. **RZN 05-1471:** Ordinance rezoning property described in RZN 05-1471 for approximately 36.99 acres located at 5150 and 5270 E. Huntsville Road from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units Per Acre;

13. **Planning Commission Appeal:** Ordinance rezoning property described in RZN 05-1452 for approximately 6.68 acres located at 5450 Huntsville Road from C-1 Neighborhood Commercial to RSF-4 Single Family, Four Units Per Acre;
14. **Minimum Bid Pricing of 35 Acres of City Land:** Resolution setting minimum bid price for sale of 35 acres of the Westside Wastewater Treatment Plant Site, which is south of Persimmon Street and west of Broyles Road, at \$29,000.00 per acre for a total minimum bid price of \$1,015,000.00.